



PUBLIC EMPLOYMENT RELATIONS BOARD

2011-2012 ANNUAL REPORT

October 15, 2012



EDMUND G. BROWN JR., GOVERNOR

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

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Board Members

*ANITA I. MARTINEZ
*ALICE DOWDIN CALVILLO
*A. EUGENE HUGUENIN
SALLY M. MCKEAG

*Current Board Members

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PUBLIC EMPLOYMENT RELATIONS BOARD

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October 15, 2012

Dear Members of the State Legislature and fellow Californians:

It is hard to believe that the 2011-12 fiscal year has flown by so quickly! From the moment my term began, there has been an endless succession of exciting events at PERB, including my Senate confirmation along with that of my fellow appointee, A. Eugene Huguenin; the retirement from State service of fellow Board member Sally M. McKeag; the hiring of my legal advisor, Sarah L. Cohen; the hiring of new PERB staff, including the Chief Administrative Law Judge, an administrative law judge, and two staff counsel in the Office of the General Counsel; the convening of two Advisory Committee meetings that provided our constituents with the opportunity to be heard on Board processes and proposed regulations; the organizing of special meetings in the Bay Area and Los Angeles to solicit public comment on the implementation of new legislation regarding the factfinding process for parties governed by the Meyers-Milias-Brown Act; the upgrading of our website to provide additional user-friendly information, including proposed regulations, comments submitted by constituents to proposed regulations, and notices of special meetings; the passage of legislation effective July 1, 2012, transferring the State Mediation and Conciliation Service from the Department of Industrial Relations to become a division of PERB; the passage of the In-Home Supportive Services Employer-Employee Relations Act; and, the passage of legislation effective July 1, 2013, moving PERB under the auspices of the Labor and Workforce Development Agency. And, that is just to name a few!

Much of the above could not have occurred as smoothly or successfully without PERB's most valuable asset, its professional and administrative staff. Each one of them is committed to PERB's mission and has dedicated their unique talents and abilities to fulfilling the agency's statutory duties. They are guided by the premise that through the adjudication of public sector labor relations disputes in an expert, fair and efficient manner, we do our part to reinforce public employers' and employees' commitment to public service.

The Office of the General Counsel continued to whittle down the backlog of unfair practice charges and other cases, completing more investigations each month than the number of new cases filed. A total of 867 unfair practice investigations were completed during the fiscal year compared to 768 unfair practice charges filed; and while there were 408 unfair practice cases pending at the end of fiscal year 2010-11, a total of 356 unfair practice cases were pending at the end of fiscal year 2011-12. Even more encouraging is that current unfair practice individual caseloads are lower overall, and more evenly distributed. At the end of fiscal year 2010-11, the number of pending unfair practice cases carried by General Counsel attorneys ranged from a low

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of 25 to a high of 82 (with an average of 51 pending cases per attorney); at the end of fiscal year 2011-12, that number ranged from a low of 29 to a high of 60 (with an average of 40 pending cases per attorney). Also, 294 representation cases were filed, up from the previous fiscal year's number of 230; 298 representation cases were closed; and seven elections were conducted.

Further, the Office of the General Counsel continues to successfully manage a *full* complement of litigation projects involving complex issues of law and policy including requests for injunctive relief and petitions for writ of review.

Similar positive results for the Division of Administrative Law were achieved as a result of a new formal hearing assignment system implemented by the Chief Administrative Law Judge. The assignment system allowed the Division to chip away at the backlog of cases that had resulted from staffing shortages over the past few years. As a byproduct of the new assignment system, we were pleased to see a greater number of cases settle and a greater number of charges withdrawn at the formal hearing stage of the proceedings. Administrative law judges wrote 61 proposed decisions (the highest number since fiscal year 2001-02) and closed a phenomenal 184 cases. I am also very pleased to report that the Board itself successfully tackled its backlog and issued 100 precedential decisions, the highest number of decisions issued since fiscal year 2004-05. For more detailed statistical information, please consult section IV of this report on Case Dispositions and related Appendices.

As we enter the 2012-13 fiscal year, we are encouraged by the commitment demonstrated by public employers, employee organizations and employees alike in working together to deliver quality public services through hard work, cooperation and mutual respect. We are also appreciative of the Governor's and the Legislature's continued recognition of the important role that public sector collective bargaining plays in stabilizing public employment and ensuring the delivery of quality public services.

All of us at PERB hope that you find this report informative. It summarizes PERB's scope of operations and the results of the fiscal year's work in its description of PERB's responsibilities (statutory authority, jurisdiction, purpose and duties) and activities (legislation, rulemaking and case dispositions).

Please visit our website at www.perb.ca.gov or contact PERB at (916) 322-3198 for any further information.

Respectfully submitted,


Anita I. Martinez
Chair

Introduction of Board Members and Administrators

Board Members

Anita I. Martinez has been employed with the Public Employment Relations Board (PERB or Board) since 1976. In May 2011, Governor Edmund G. Brown Jr. appointed her Member and Chair of the Board. Prior to her appointment, Ms. Martinez served as the PERB San Francisco Regional Director since 1982. Her duties included supervision of the regional office, investigation of representation cases and unfair practice charges, and the conduct of settlement conferences, representation hearings, and elections. Before joining PERB, Ms. Martinez worked for the National Labor Relations Board in San Francisco and the Agricultural Labor Relations Board in Sacramento and Salinas. A contributing author of the Matthew Bender treatise, California Public Sector Labor Relations, she has also addressed management and employee organization groups regarding labor relations issues. A San Francisco native, Ms. Martinez received her B.A. in Political Science from the University of San Francisco. Ms. Martinez' term expires in 2013.

Alice Dowdin Calvillo was appointed to the Board by Governor Arnold Schwarzenegger in January 2008, confirmed by the Senate in January 2009, and served as Chair of the Board from May 2009 until May 2011. Ms. Dowdin Calvillo has more than 25 years of experience working in State and local government. Since 2005, Ms. Dowdin Calvillo served in several senior level advisory positions to Governor Schwarzenegger, including as Chief Deputy Cabinet Secretary and Chief Deputy Appointments Secretary. Before joining the Governor's Office, she was Legislative Director for the California Department of Toxic Substances Control.

Governor Pete Wilson appointed Ms. Dowdin Calvillo as a Chief Advisor to the California Integrated Waste Management Board in early 1998 and prior to that she was his appointment as Deputy Director of Legislation and Operations for the Managed Health Care Improvement Task Force. Ms. Dowdin Calvillo also served as the Chief Consultant to the California State Assembly Consumer Protection, Governmental Efficiency and Economic Development Committee in the mid 1990s. Before joining the Assembly staff, Ms. Dowdin Calvillo served in a variety of senior analytical positions within State service.

Ms. Dowdin Calvillo served two terms on the Auburn City Council from 1998-2005 and was Mayor in 2001 and 2005. During her tenure on the City Council, Ms. Dowdin Calvillo served on several commissions and committees, including the Placer County Economic Development Board (where she also served as Chair), Board of Directors for the Sacramento Area Council of Governments, Regional Wastewater Treatment and Storage Facility Joint Powers Authority, and Local Agency Formation Commission for Placer County. In addition, she was a member of the Sacramento Region Advisory Board for the Great Valley Center.

The Placer County Board of Supervisors appointed Ms. Dowdin Calvillo as the District 3 representative on the Placer County Parks Commission in 1997, where she served as its Chair in 1999 and 2000.

Ms. Dowdin Calvillo obtained her Bachelor of Arts in Political Science-Public Service and in German from the University of California, Davis. Ms. Dowdin Calvillo's term expires in 2012.

A. Eugene Huguenin was appointed to the Board by Governor Edmund G. Brown Jr. in May 2011. Prior to his appointment, Mr. Huguenin practiced labor, employment and education law in the Sacramento-area. He advised and represented public employees and their organizations in judicial and administrative proceedings, and consulted on educational policy and procedures. From 2005 to 2009, he served as a commissioner on the Fair Political Practices Commission.

Before relocating to Sacramento in 2000, Mr. Huguenin practiced labor and education law in Los Angeles and Burlingame for more than 20 years, advising and representing the California Teachers Association and its locals throughout the state. From 1973 to 1979, Mr. Huguenin consulted for CTA on labor relations issues. Prior to joining CTA, he was employed in the Seattle area by a local teachers association and a national accounting firm.

Mr. Huguenin is a member of the Los Angeles County Bar Association, the State Bar of California and the American Bar Association. He received a Bachelor's degree in Business Administration in 1966, and a Juris Doctor in 1969, from the University of Washington. Mr. Huguenin's term expires in 2015.

Sally M. McKeag was appointed to PERB by Governor Arnold Schwarzenegger in March 2005.

Prior to her appointment to the Board, she served as Chief Deputy Director of the California Employment Development Department and Deputy Staff Director of the Governor-Elect's Transition Team.

Ms. McKeag returned to California after two years in Washington, D.C. where she served as Chief of Staff to the Department of Labor's Employment and Training Administration Assistant Secretary.

Prior to her employment at the Department of Labor, Ms. McKeag served in a variety of capacities for the California State Senate and the Wilson Administration. Specifically, she was Director of Public Affairs for the Senate Republican Caucus where she oversaw the development and implementation of strategies to support Senate members in representing their constituencies. Under Governor Pete Wilson, she served as Deputy Director of Operations for the Department of Consumer Affairs, Acting Deputy Director of the Department of Fish and Game, and Director of the Governor's Office of Constituent Affairs.

Prior to working for Governor Wison, Ms. McKeag served in the Reagan and Bush Administrations in Washington, D.C. She was the Director of the Executive Secretariat at the Environmental Protection Agency, overseeing the coordination of all correspondence and other official documents for the EPA Administrator. Ms. McKeag was also Special Assistant to the Secretary of the Interior, supervising all functions related to scheduling of the Secretary's participation in official and political events. Ms. McKeag's term expired in December 2011.

Legal Advisors

Dorothy Bacskai Egel was appointed as Legal Advisor to Board Chair Tiffany Rystrom in May 2009. Since then, she has served as Legal Advisor to Members Karen L. Neuwald and Kari Miner. She currently serves as Legal Advisor to Member Alice Dowdin Calvillo. Previously, Ms. Egel served as Staff Counsel IV to the California State Personnel Board, where she worked from 1995 to 2009. Prior to entering state service, Ms. Egel practiced labor and employment law with the firm of Cook, Brown, Rediger and Prager from 1987 to 1995. Ms. Egel received her Juris Doctor degree from Boalt Hall School of Law, University of California, Berkeley. She also holds a Masters of Public Policy from the Graduate School of Public Policy and a Bachelor of Arts degree in Political Economy of Industrial Societies, both from the University of California, Berkeley. Ms. Egel is a member of the editorial board of the California Labor and Employment Law Review.

Sarah L. Cohen was appointed as Legal Advisor to Board Chair Anita I. Martinez in July 2011. Previously, Ms. Cohen served as Industrial Relations Counsel IV in the Office of the Director - Legal Unit at the Department of Industrial Relations, where she worked from 1994 to 2011. Prior to entering state service, Ms. Cohen was a legal services attorney in the Employment Law Office at the Legal Aid Foundation of Los Angeles from 1988 to 1994. Ms. Cohen received her Juris Doctor degree from the University of California, Hastings College of the Law. Ms. Cohen also holds a Bachelor of Arts degree from the University of California, Los Angeles.

Priscilla S. Winslow was appointed as Legal Advisor to Board Member A. Eugene Huguenin on July 23, 2012. Previously Ms. Winslow served as Assistant Chief Counsel of the California Teachers Association where she worked from 1996 to 2012. Prior to her employment at CTA Ms. Winslow maintained a private law practice in Oakland and San Jose representing individuals and public sector unions in employment and labor law matters. In addition to practicing law, Ms. Winslow taught constitutional law at New College of California, School of Law as an adjunct professor from 1984 to 1993. From 1979 to 1983 Ms. Winslow served as Legal Advisor to PERB Chairman Harry Gluck. She received her Juris Doctor degree from the University of California, Davis and a Bachelor of Arts degree in History and Philosophy from the University of California, Santa Cruz.

James E. Coffey became a Research Counsel to Member A. Eugene Huguenin in June 2011. Mr. Coffey began his legal career as a law clerk for Klinedinst, PC in 2008. He then worked as a legal intern for the Voluntary Legal Services of Northern California Employment Law Clinic in 2009. Upon graduating from University of the Pacific, McGeorge School of Law in 2010, he worked for the California Parole Advocacy Program where he represented parolees before an Administrative Law Judge. Mr. Coffey received a B.A. degree in History from the University of Illinois at Urbana-Champaign. Mr. Coffey became a Regional Attorney for PERB's Office of the General Counsel in March of 2012.

Gregory T. Lyall was appointed and served as Legal Advisor to Member Sally M. McKeag from June 2005 through November 2011. Prior to his appointment at PERB, Mr. Lyall served as a staff counsel at the California Department of Personnel Administration from 2001 to 2005.

Before entering state service, Mr. Lyall was an associate attorney with the law firms of Kronick, Moscovitz, Tiedemann & Girard (1997-2001) and Pinnell & Kingsley (1994-1997). Mr. Lyall received his B.S. degree in Biology from the University of Southern California and his Juris Doctorate from the University of San Diego School of Law where he graduated with *cum laude* honors and served as a member of the San Diego Law Review. Mr. Lyall also teaches a class on labor and employment law through U.C. Davis Extension.

Administrators

M. Suzanne Murphy was appointed PERB General Counsel in May 2011. Before joining PERB, she was the executive and legal director for Worksafe, a nonprofit organization dedicated to promoting workplace health and safety, from 2008 to 2009. She was legal counsel for the California Nurses Association from 2006 to 2007, and an appellate and litigation attorney with Weinberg, Roger and Rosenfeld from 2003 to 2006. Ms. Murphy also worked for the California Courts, where she was managing attorney in the Judicial Council's Center for Families, Children & the Courts from 2002 to 2003; supervising attorney in the Rules and Projects Unit in the Office of the General Counsel from 2000 to 2002; and a senior research attorney to the Honorable Michael J. Phelan and Patricia K. Sepulveda of the California Court of Appeal for the First Appellate District from 1993 to 2000. Earlier in her legal career, Ms. Murphy was an associate in the labor and employment group at Heller, Ehrman, White & McAuliffe from 1992 to 1993, and in the business and employment litigation groups at Cooley, Godward, Castro, Huddleston & Tatum from 1989 to 1991. She also served as a law clerk to the Honorable Cynthia Holcomb Hall of the U.S. Court of Appeals for the Ninth Circuit from 1988 to 1989, and from 2009 to 2011. Ms. Murphy received her A.B. degree in Human Biology, with distinction, from Stanford University in 1975. She received her J.D. degree from Boalt Hall School of Law in 1988, and was admitted to the Order of the Coif.

Wendi L. Ross joined PERB as Deputy General Counsel in April 2007 and has more than 20 years of experience practicing labor and employment law. Ms. Ross was employed for over ten years by the State of California, Department of Personnel Administration as a Labor Relations Counsel. Prior to that position, she was employed as an associate attorney with the law firms of Pinnell & Kingsley and Thierman, Cook, Brown & Prager. Ms. Ross received her Bachelor of Arts' degree from U.C. Davis and her law degree from UOP, McGeorge School of Law. She has served as Chair of the Sacramento County Labor and Employment Law Section and previously taught an arbitration course through the U.C. Davis Extension.

Shawn P. Cloughesy is the Chief Administrative Law Judge for PERB. He has 18 years experience as an Administrative Law Judge with two state agencies (PERB and the State Personnel Board) conducting hundreds of hearings involving public sector labor and employment matters. Prior to being employed as an administrative law judge, Mr. Cloughesy was a Supervising Attorney for the California Correctional Peace Officers Association, practicing and supervising attorneys who practiced before PERB and other agencies.

Eileen Potter began working for PERB in 1993 as the Administrative Officer. Her state service includes the Governor's Office of Planning and Research (OPR) from 1979 through 1990 culminating in her appointment as the Assistant Chief of Administration. After leaving OPR, Ms. Potter worked at the Office of Statewide Health Planning and Development and the Department of Health Services before coming to PERB as its Administrative Officer. Ms. Potter retired in June 2012. She has a degree in Criminal Justice Administration with minors in Accounting and English from California State University, Sacramento.

Les Chisholm currently serves as Division Chief, Office of the General Counsel for PERB and served as Sacramento Regional Director since 1987. His duties include investigation of representation cases and unfair practice charges, and conduct of settlement conferences and representation hearings and elections. Mr. Chisholm also has responsibilities in the areas of legislation, rulemaking and technology projects for the Board. He received a B.A. from Florida Atlantic University and M.A. in political science from the University of Iowa.

II. OVERVIEW

Statutory Authority and Jurisdiction

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties. The statutes administered by PERB are: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code, § 3540 et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code, § 3512 et seq.), establishing collective bargaining for State employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code, § 3560 et seq.), authored by Assemblyman Howard Berman, extending the same coverage to the California State University and University of California systems and Hastings College of Law.

As of July 1, 2001, PERB acquired jurisdiction over the Meyers-Milias-Brown Act (MMBA) of 1968 (Gov. Code, § 3500 et seq.), which established collective bargaining for California's city, county, and local special district employers and employees. PERB's jurisdiction over the MMBA excludes specified peace officers, management employees, and the City and County of Los Angeles.

On January 1, 2004, PERB's jurisdiction was expanded to include the supervisory employees of the Los Angeles County Metropolitan Transportation Authority. The Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) is codified at Public Utilities Code section 99560 et seq.

Effective August 16, 2004, PERB also acquired jurisdiction over the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 (Gov. Code, § 71600 et seq.) and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002 (Gov. Code, § 71800 et seq.).

Since 2001, approximately two million public sector employees and their employers have been included within the jurisdiction of the collective bargaining statutory schemes administered by PERB. The approximate number of employees under these statutes is as follows: 675,000 work for California's public education system from pre-kindergarten through and including the community college level; 237,000 work for the State of California; 100,000 work for the University of California, California State University, and Hastings College of Law; and the remaining public employees work for California's cities, counties, special districts, trial courts, and the Los Angeles County Metropolitan Transportation Authority.

In addition, though not effective until the 2012-2013 fiscal year, PERB's jurisdiction and responsibilities were also changed in late June 2012 by the enactment of Senate Bills 1036 and 1038. Senate Bill 1036, in relevant part, enacted the In-Home Supportive Services Employer-Employee Relations Act (IHSSA). The IHSSA is within the jurisdiction of PERB to

administer and enforce, with respect to both unfair practices and representation issues. The IHSSA will initially cover only eight counties: Alameda, Los Angeles, Orange, Riverside, San Bernardino, Santa Clara, San Diego, and San Mateo. The enactment of the IHSSA brings the Los Angeles County providers under PERB for the first time.

Senate Bill 1038, inter alia, repealed and recast existing provisions of law establishing the State Mediation and Conciliation Service (SMCS) within the Department of Industrial Relations. The legislation placed SMCS within PERB, and vested PERB with all of the powers, duties, purposes, responsibilities, and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through SMCS.

PERB's Purpose and Duties

The Board

The Board itself is composed of five Members appointed by the Governor and subject to confirmation by the State Senate. Board Members are appointed to five-year terms, with the term of one Member expiring at the end of each calendar year. In addition to the overall responsibility for administering the seven statutes, the Board acts as an appellate body to hear challenges to proposed decisions issued by Board agents. Decisions of the Board itself may be appealed under certain circumstances to the State appellate and superior courts. The Board, through its actions and those of its agents, is empowered to:

- conduct elections to determine whether employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- prevent and remedy unfair labor practices, whether committed by employers or employee organizations;
- investigate impasse requests that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;
- ensure that the public receives accurate information and has the opportunity to register opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- interpret and protect the rights and responsibilities of employers, employees, and employee organizations under the Acts;
- bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- conduct research and training programs related to public sector employer-employee relations; and
- take such other action as the Board deems necessary to effectuate the purposes of the Acts it administers.

A summary of the Board's 2011-2012 decisions is included in the Appendices, beginning at page 26.

Major PERB Functions

The major functions of PERB involve: (1) the investigation and resolution of unfair practice charges; (2) the administration of the representation process through which public employees freely select employee organizations to represent them in their labor relations with their employer; (3) the appeals of Board agent determinations to the Board itself; and (4) the legal functions performed by the Office of the General Counsel.

Unfair Practice Charges

The investigation and resolution of unfair practice charges is the major function performed by PERB. Unfair practice charges may be filed with PERB by an employer, employee organization, or employee. Members of the public may also file a charge, but only concerning alleged violations of public notice requirements under the Dills Act, EERA, HEERA, and TEERA. Unfair practice charges can be filed online, as well as by mail, facsimile, or personal delivery.

An unfair practice charge alleges an employer or employee organization engaged in conduct that is unlawful under one of the statutory schemes administered by PERB. Examples of unlawful employer conduct are: refusing to negotiate in good faith with an employee organization; disciplining or threatening employees for participating in union activities; and promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; and failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is reviewed by a Board agent to determine whether a prima facie violation of an applicable statute has been established. A charging party establishes a prima facie case by alleging sufficient facts to establish that a violation of the EERA, Dills Act, HEERA, MMBA, TEERA, Trial Court Act, or Court Interpreter Act has occurred. If the charge fails to state a prima facie case, the Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is given time to either amend or withdraw the charge. If the charge is not amended or withdrawn, it is dismissed. The charging party may appeal the dismissal to the Board itself.

If the Board agent determines that a charge, in whole or in part, states a prima facie case of a violation, a formal complaint is issued. The respondent may file an answer to the complaint.

Once a complaint is issued, another Board agent is assigned to the case and calls the parties together for an informal settlement conference. The conference usually is held within 30 to 60 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB Administrative Law Judge (ALJ) is scheduled. A hearing usually occurs within 90 to 120 days from the date of the informal conference. Following this adjudicatory proceeding, the

ALJ prepares and issues a proposed decision. A party may appeal the proposed decision to the Board itself. The Board itself may affirm, modify, reverse, or remand the proposed decision.

Proposed decisions that are not appealed to the Board itself are binding upon the parties to the case, but may not be cited as precedent in other cases before the Board.

Final decisions of the Board itself are both binding on the parties to a particular case and precedential. All Board decisions are available on our website (<http://www.perb.ca.gov>) or by contacting PERB. On the PERB website, interested parties can also sign-up for electronic notification of new Board decisions.

Representation

The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications that have an internal and occupational community of interest. In most situations, if only one petition is filed, with majority support, and the parties agree on the description of the bargaining unit, the employer must grant recognition to the employee organization as the exclusive representative of the bargaining unit employees. If two or more employee organizations are competing for representational rights of an appropriate bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent holds a settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation, and in some cases a hearing, and issues a written determination. That determination sets forth the appropriate bargaining unit, or modification of that unit, based upon statutory unit-determination criteria and appropriate case law. Once an initial bargaining unit has been established, PERB may conduct a representation election, unless the applicable statute and the facts of the case require the employer to grant recognition to an employee organization as the exclusive representative. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

A summary of PERB's 2011-2012 representation activity is included in the Appendices at page 24.

Mediation/Factfinding

PERB staff also assist parties in reaching negotiated agreements through the mediation process provided in EERA, HEERA, and the Dills Act, and through the factfinding process provided under EERA, HEERA, and the MMBA.

If the parties are unable to reach an agreement during negotiations under EERA, HEERA, or the Dills Act, either party may declare an impasse and request the appointment of a mediator. A Board agent contacts both parties to determine if they have reached a point in their negotiations

that further meetings without the assistance of a mediator would be futile. Once PERB has determined that impasse exists, SMCS assigns a mediator. If settlement is not reached during mediation under EERA or HEERA, either party may request the initiation of statutory factfinding procedures. PERB appoints the factfinding chairperson who, with representatives of the employer and the employee organization, makes findings of fact and advisory recommendations to the parties concerning settlement terms.

If the parties reach impasse during negotiations under the MMBA, and a settlement is not achieved through impasse dispute resolution procedures authorized by applicable local rules, only the employee organization may request the initiation of statutory factfinding procedures under the MMBA. If factfinding is requested, PERB appoints the factfinding chairperson who, with representatives of the employer and the employee organization, makes findings of fact and advisory recommendations to the parties concerning settlement terms.

Appeals Office

The Appeals Office, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. It maintains case files, issues decisions rendered, and prepares administrative records for litigation filed in California's appellate courts. This office is the main contact with parties and their representatives while cases are pending before the Board itself.

Office of the General Counsel

The legal representation function of the Office of the General Counsel includes:

- defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in the State appellate courts;
- seeking enforcement when a party refuses to comply with a final Board decision, order, or ruling, or with a subpoena issued by PERB;
- seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- defending the jurisdiction of the Board, submitting motions, pleadings, and amicus curiae briefs, and appearing in cases in which the Board has a special interest.

A summary of PERB's 2011-2012 litigation activity is included in the Appendices, beginning at page 65.

Other PERB Functions and Activities

Information Requests

As California's expert administrative agency in the area of public sector collective bargaining, PERB is consulted by similar agencies from other states concerning its policies, regulations, and formal decisions. Information requests from the Legislature and the general public are also received and processed.

Support Functions and Board Operations

The Administration Section provides support services to PERB, such as business services, personnel, accounting, information technology, mail, and duplicating. This section also handles budget development and maintains liaison with the Department of Finance and other State agencies.

PERB emphasizes use of technology as a means of increasing productivity and, therefore, has moved forward with the full development of its website. PERB's website now provides the ability to access PERB decisions, regulations, statutes, and forms online.

III. LEGISLATION AND RULEMAKING

Legislation

Assembly Bill 117 (Chapter 39, Statutes of 2011) added Section 71622.5 to the Trial Court Act. This section, addressing the appointment of hearing officers, was enacted as a result of the enactment of 2011 Realignment Legislation (Chapter 15 of the Statutes of 2011), and the stated intent of the Legislature was to afford the courts the maximum flexibility to manage caseload in the manner that is most appropriate to each court.

Assembly Bill 195 (Chapter 271, Statutes of 2011) amended the MMBA by adding Section 3506.5, defining certain unfair practices by employers.

Assembly Bill 501 (Chapter 674, Statutes of 2011) amended the definition of “exclusive representative” under EERA, at section 3540.1(e), to mean an employee organization recognized or certified as the exclusive bargaining representative of “public school employees” as defined at EERA section 3540.1(j). The legislation further amended the definition of “employer” or “public school employer” under EERA 3540.1(k) to include specified auxiliary organizations established by the California Community Colleges, as well as joint powers agencies, as specified.

Assembly Bill 646 (Chapter 680, Statutes of 2011) amended the MMBA by adding Sections 3505.5 and 3505.7, and repealing and adding Section 3505.4. Under these amendments, exclusive representatives may request factfinding in impasse dispute resolution. PERB is responsible for the appointment of the factfinding panel chairperson. Charter cities and charter counties with binding arbitration as part of their impasse resolution procedures are exempt from this requirement.

Senate Bill 609 (Chapter 242, Statutes of 2011) amended the MMBA, EERA, Dills Act, Trial Court Act, TEERA, HEERA, and Court Interpreter Act to provide that the decision of a PERB ALJ regarding the recognition or certification of an employee organization, if appealed, is deemed a final order of the Board if the Board does not issue a ruling that supersedes that decision within 180 days after the appeal is filed.

Senate Bill 857 (Chapter 539, Statutes of 2011) amended the MMBA, EERA, Dills Act, Trial Court Act, TEERA, HEERA, and Court Interpreter Act, to prohibit PERB from awarding damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike.

Senate Bill 1036 (Chapter 45, Statutes of 2012), in combination with Senate Bill 1008, makes a number of changes with respect to how in-home supportive services (IHSS) are administered. The legislated changes are referenced collectively as the Coordinated Care Initiative. The most relevant aspect of Senate Bill 1036 to PERB is the enactment of the new IHSSA. The IHSSA, found at new Title 23 of the Government Code, sections 110000 through 110036, establishes a Statewide Authority as the employer, for purposes of collective bargaining, for IHSS providers. Existing bargaining units and the status of the exclusive representative are not affected by this legislation, although IHSSA includes coordinated bargaining requirements.

The IHSSA is within the jurisdiction of PERB to administer and enforce, with respect to both unfair practices and representation issues. However, the IHSSA will, pursuant to Senate Bills 1008 and 1036, initially cover only eight counties: Alameda, Los Angeles, Orange, Riverside, San Bernardino, Santa Clara, San Diego, and San Mateo; but these eight counties include nearly 60 percent of the nearly 400,000 IHSS providers (Los Angeles alone has over 100,000). The enactment of the IHSSA brings the Los Angeles County providers under PERB for the first time. The IHSSA also introduces some new elements with respect to the scope of representation, and requires PERB to administer representation procedures that formerly fell under local rules adopted pursuant to MMBA section 3507.

Senate Bill 1038 (Chapter 46, Statutes of 2012), inter alia, repealed and recast existing provisions of law establishing the SMCS within the Department of Industrial Relations. The legislation placed SMCS within PERB, and vested PERB with all of the powers, duties, purposes, responsibilities, and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through SMCS.

Senate Bill 1171 (Chapter 162, Statutes of 2012) included non-substantive amendments to EERA section 3540.1.

Rulemaking

Assembly Bill 646 (Statutes of 2011, Chapter 680)

In October 2011, PERB staff began meeting with interested parties regarding proposed changes required by amendments to the MMBA, which provides for a factfinding process under the MMBA.

Effective December 29, 2011, PERB's proposed emergency regulations—necessary to implement changes made by Assembly Bill 646—were approved by the Office of Administrative Law (OAL). PERB subsequently submitted a regular rulemaking package to OAL for adoption of permanent regulations, notified interested parties of the changes being considered, held a public hearing on the proposed regulations, and adopted the proposed regulations without modification. The regular rulemaking process was completed and approved by OAL on July 30, 2012, and the regulations were submitted to the Secretary of State for publication.

Non-Substantive Rulemaking Activity

A regulations package containing non-substantive and clarifying changes was submitted to OAL under the authority of California Code of Regulations, title 1, section 100. This package was limited to updating reference citations, correcting an incorrect cross-reference, and fixing a typographical error. The package was submitted for adoption to OAL on February 13, 2012 and was approved on March 14, 2012.

IV. CASE DISPOSITIONS

Unfair Practice Charge Processing

The number of unfair practice charges filed with PERB generally has increased as a result of the changes in PERB's jurisdiction since 2001. In 2011-2012, 768 new charges were filed.

Dispute Resolutions and Settlements

PERB stresses the importance of voluntary dispute resolution. This emphasis begins with the first step of the unfair practice charge process—the investigation. During this step of the process in fiscal year 2011-2012, 268 cases (31% of 867 charge investigations completed) were withdrawn, many through informal resolution by the parties. PERB staff also conducted 285 days of settlement conferences for cases in which a complaint was issued. These efforts resulted in voluntary settlements (withdrawals) in 165 cases (approximately 49% of the 336 cases closed after issuance of a complaint and prior to a hearing).

PERB's high success rate in mediating voluntary settlements is, in part, attributable to the tremendous skill and efforts of its staff, but also requires commitment by the parties involved to look for solutions to problems. As the efforts of PERB staff demonstrate, voluntary settlements are the most efficient and timely way of resolving disputes, as well as an opportunity for the parties to improve their collective bargaining relationships. PERB looks forward to continuing this commitment to voluntary dispute resolution.

Administrative Adjudication

Complaints that are not resolved through voluntary mediation are sent to the Division of Administrative Law for an evidentiary hearing before an administrative law judge (ALJ). In 2011-2012, 6 ALJs issued 61 proposed decisions, averaging 102 days to render a decision. Of the 61 proposed decisions, 34 percent were appealed to the Board. The Division closed a remarkable 184 cases.

Board Decisions

Proposed decisions issued by PERB's administrative law judges and Board agent dismissals of unfair practice charges may be appealed to the Board itself. During the 2011-2012 fiscal year, the Board issued 100 decisions and also considered 21 requests for injunctive relief. (A summary of injunctive relief requests filed compared to prior years is included in the Appendices at page 23.)

Litigation

Fiscal year 2011-2012 continued the recent trend of substantial annual increases in court litigation¹ for PERB. Specifically, 139 litigation-related assignments were completed by PERB attorneys (compared to approximately 93 last fiscal year, 90 the year before that, and 75 the year before that). A total of 37 litigation cases, including new and continuing matters, were handled during the 2011-2012 fiscal year (compared to 30 last fiscal year and 24 the year before). A summary of these cases is included in the Appendices, beginning at page 65.

Representation Activity

For fiscal year 2011-2012, 74 new representation petitions were filed, an increase of 4 cases when compared to the prior year. The fiscal year total includes 22 recognition petitions, 5 severance requests, 4 petitions for certification, 5 decertification petitions, 2 requests for amendment of certification, 35 unit modification petitions, and 1 fair share fee (agency shop) rescission petition.

Election activity decreased, with 7 elections conducted compared to 11 in the prior year. The 7 elections conducted by PERB during the fiscal year included 5 decertification elections, and 2 representation elections. More than 530 employees were eligible to participate in these elections, in bargaining units ranging in size from 4 to 176.

Mediation/Factfinding/Arbitration

During the 2011-2012 fiscal year, PERB received 149 mediation requests and 50 factfinding requests. Of those factfinding requests, 29 were filed under EERA or HEERA, and 21 were filed under the MMBA pursuant to legislation that took effect on January 1, 2012. (Chapter 680, Statutes of 2011.) The number of mediation requests filed with PERB increased substantially over the prior year (111 such requests were filed in 2010-2011). The total number of factfinding requests also increased (40 requests were filed in 2010-2011, 35 requests were filed in 2009-2010, 27 requests were filed in 2008-2009).

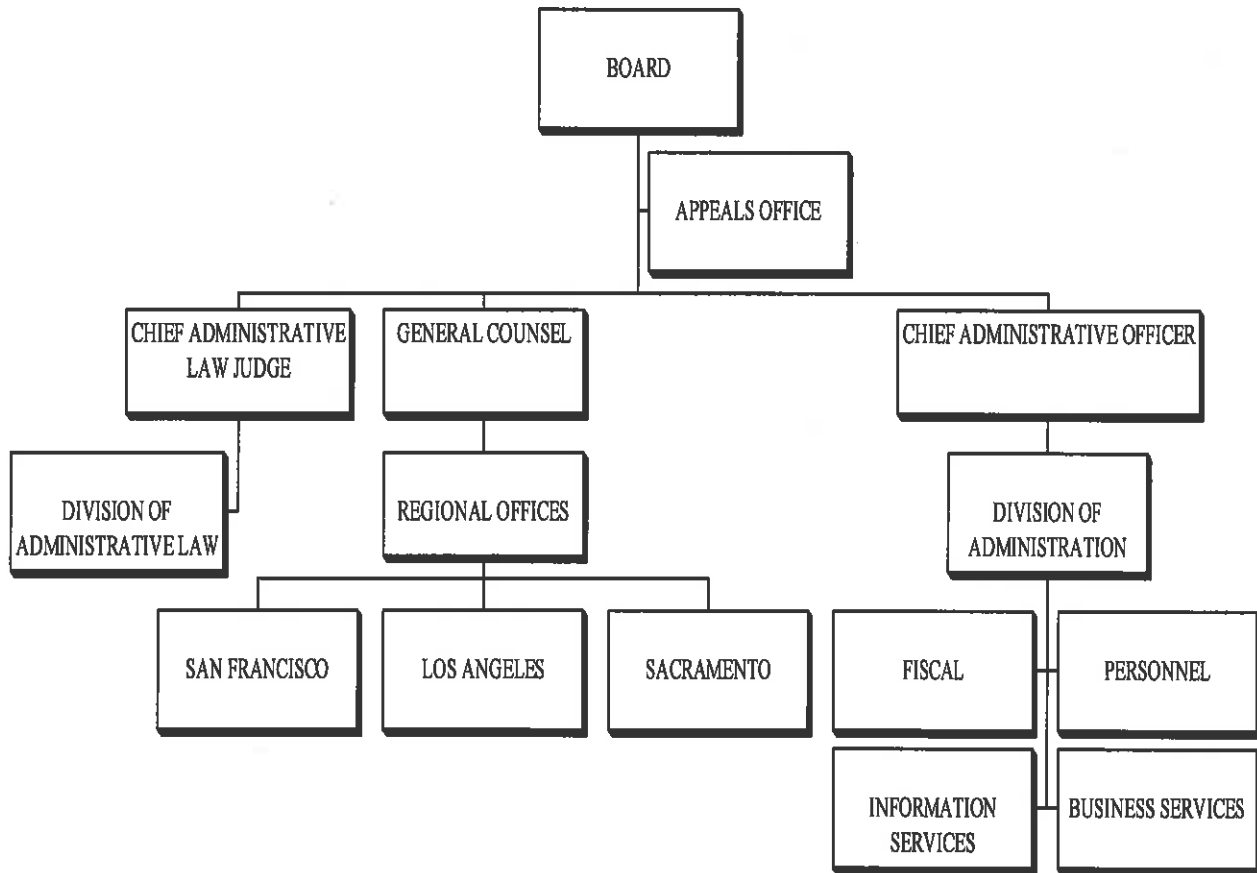
Compliance

PERB staff commenced compliance proceedings regarding 19 unfair practice cases, in which a final decision resulted in a finding of a violation of the applicable statute. This is another substantial increase in activity over the prior year (9 compliance proceedings were initiated in 2010-2011).

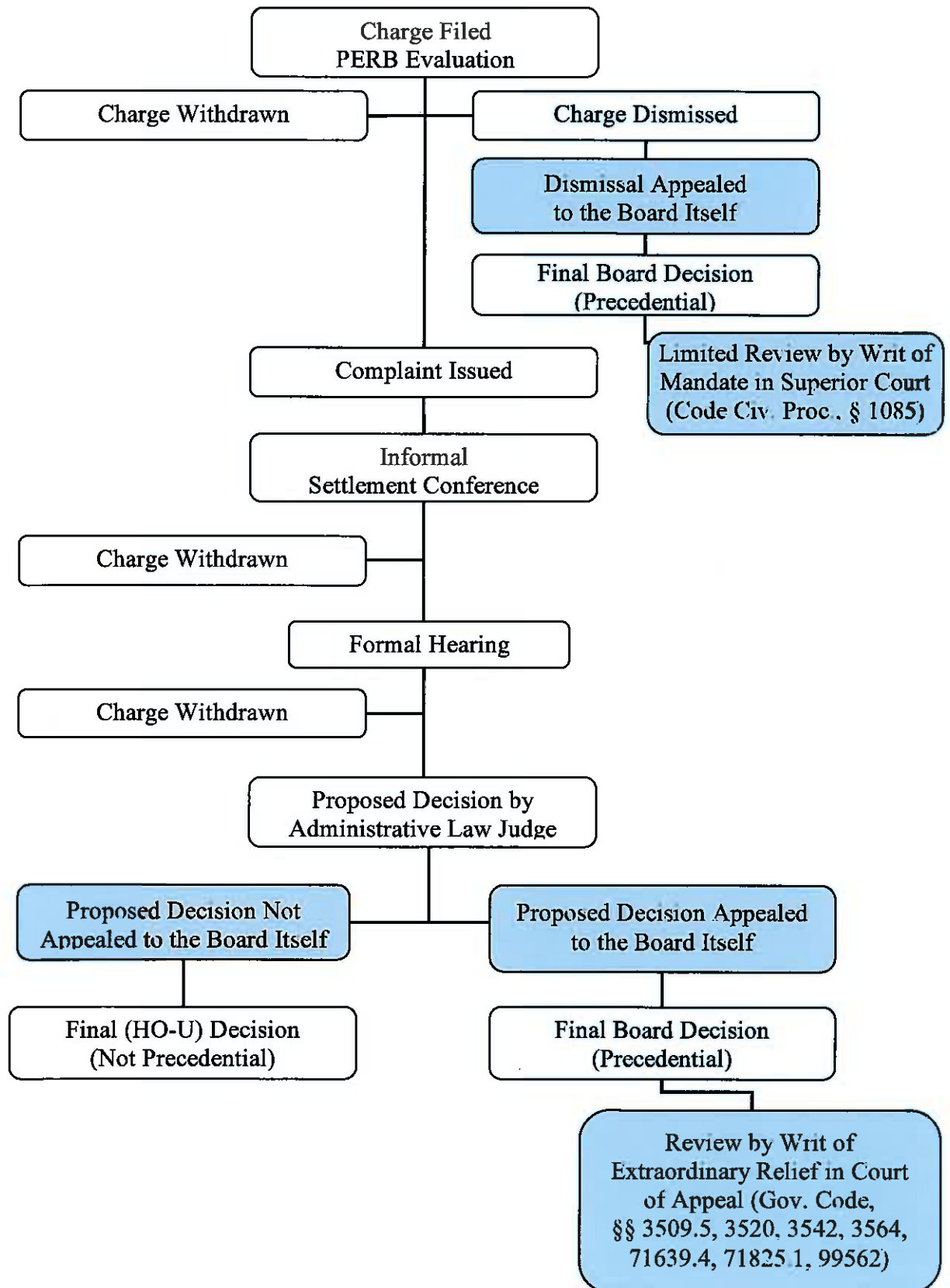
¹ PERB's court litigation primarily involves: (1) injunctive relief requests to immediately stop unlawful actions at the superior court level; (2) defending decisions of the Board at the appellate level; and (3) defending the Board's jurisdiction in all courts in the State, including the California Supreme Court. Litigation consists of preparing legal memoranda, court motions, points and authorities, briefs, stipulations, judgments, orders, etc., as well as making court appearances.

V. APPENDICES

PUBLIC EMPLOYMENT RELATIONS BOARD
Organizational Chart



UNFAIR PRACTICE CHARGE FLOW CHART



2011-2012 UNFAIR PRACTICE CHARGE STATISTICS

I. Unfair Practice Charges Filed by Region

Region	Total
Sacramento	169
San Francisco	270
Los Angeles	329
Total	768

II. Unfair Practice Charges Filed by Act

Act	Total
Dills Act	48
EERA	304
HEERA	78
MMBA	319
TEERA	3
Trial Court Act	11
Court Interpreter Act	0
Non-Jurisdictional	5
Total	768

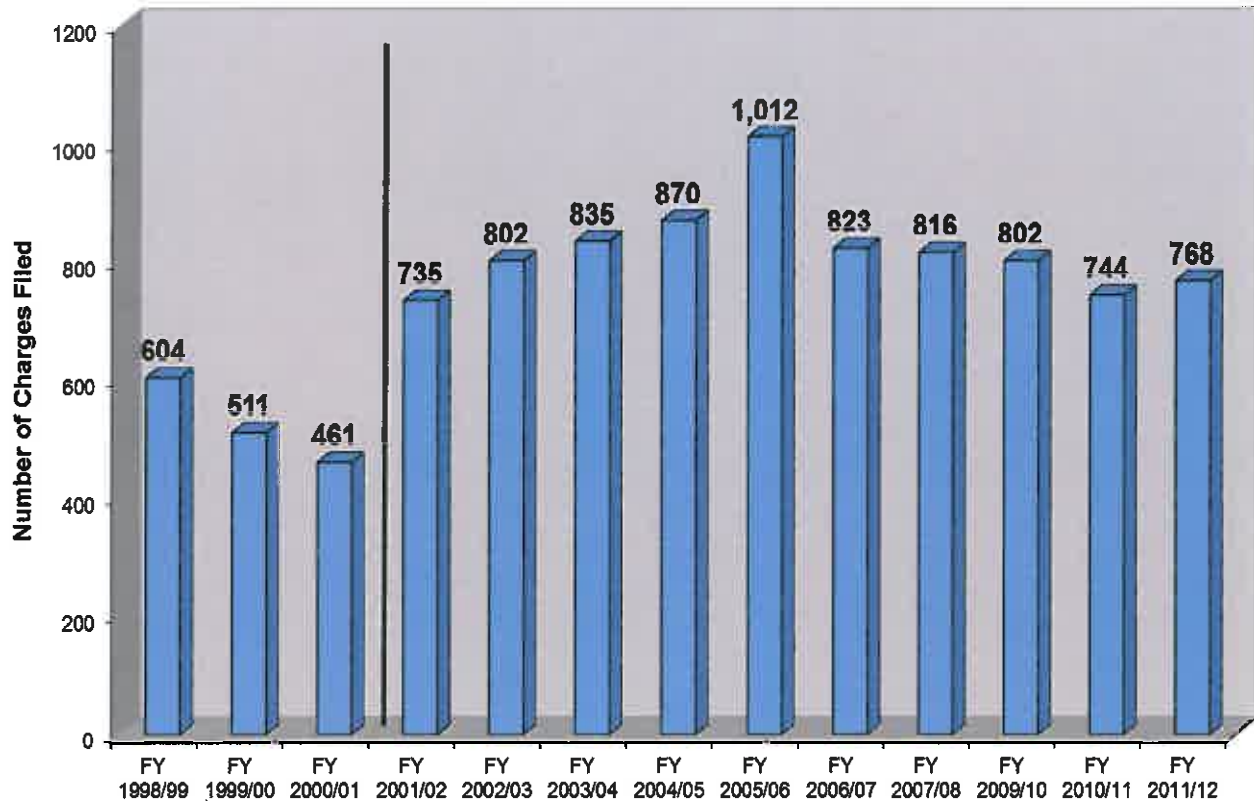
III. Prior Year Workload Comparison: Charges Filed

	2008/2009	2009/2010	2010/2011	2011/2012	4-Year Average
Total	869	802	744	768	796

IV. Unfair Practice Charge Dispositions by Region

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	63	41	76	180
San Francisco	82	105	105	292
Los Angeles	123	125	147	395
Total	268	271	328	867

Unfair Practice Charge Filings



Notes: The vertical line illustrates when MMBA jurisdiction took effect (July 1, 2001). (In Fiscal Year 2004-2005, the total number of charges filed (1126) was adjusted to discount 256 nearly identical charges filed by a single group of employees and in Fiscal Year 2001-2002 the total number (935) was reduced by 200 for a similar set of filings.)

2011-2012 REQUESTS FOR INJUNCTIVE RELIEF (IR)

I. Prior Year Workload Comparison: IR Requests Filed

	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	5-Year Average
Total	28	19	13	16	21	19

2011-2012 REPRESENTATION CASE ACTIVITY

I. Case Filings and Disposition Summary

Case Type	Filed	Closed
Request for Recognition	22	28
Severance	5	7
Petition for Certification	4	2
Decertification	5	5
Amended Certification	2	3
Unit Modification	35	42
Organizational Security	1	1
Arbitration	3	3
Mediation	149	151
Factfinding (EERA/HEERA)	29	34
Factfinding (MMBA)	21	7
Compliance	19	15
Totals	294	298

II. Prior Year Workload Comparison: Cases Filed

	2008-2009	2009-2010	2010-2011	2011-2012	4-Year Average
Fiscal Year	276	323	230	294	281

III. Elections Conducted

Amendment of Certification	0
Decertification	5
Fair Share Fee Reinstatement	0
Fair Share Fee/Agency Fee Rescission	0
Representation	2
Severance	0
Unit Modification	0
Total	7

Elections Conducted: 7/1/2011 to 6/30/2012

<i>Case No.</i>	<i>Employer</i>	<i>Unit Type</i>	<i>Winner</i>	<i>Unit Size</i>
<i>Decertification</i>		<i>Subtotal:</i>		
SA-DP-00236-E	COLUSA COE	Office Technical/Business Services	No Representation	17
SA-DP-00237-E	SAN JUAN UNIFIED SCHOOL DISTRICT	Transportation	Teamsters Local 150	176
LA-DP-00380-M	LAMONT PUBLIC UTILITY DIST	Miscellaneous	No Representation	4
SA-DP-00238-M	STANISLAUS COUNTY HOUSING AUTHORITY	General	AFSCME Local 10	64
SF-DP-00301-M	SAN BENITO HEALTH CARE DISTRICT	General	National Union of Healthcare Workers	170
<i>Representation</i>		<i>Subtotal:</i>		
SF-RR-00935-M	MONTARA WATER & SANITARY DISTRICT	Miscellaneous	Stationary Engineers Local 39	4
SA-RR-01124-E	WASHINGTON USD (FRESNO)	Wall Certificated	Washington Unified Faculty Assn.	128
<i>Total Elections:</i>		7		

2011-2012 DECISIONS OF THE BOARD

*Judicial review of Board decision pending.

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2182a-M	Lina Rosa v. California Nurses Association	Charging party requested reconsideration of dismissal of charge alleging breach of duty of fair representation.	The Board denied the request for reconsideration, finding that the request failed to establish grounds for reconsideration under PERB Regulation 32410.
2191-S	Alfred Gutierrez v. Service Employees International Union, Local 1000	The charge alleged that SEIU Local 1000 breached its duty of fair representation by sending three "uniformed" representatives to meetings regarding an adverse action, refusing to pursue an appeal of the adverse action, and proposing a settlement requiring a waiver of future legal rights against the state.	The Board affirmed the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation.
2192-M	Mohamed Hosny v. IFPTE, Local 21, AFL-CIO	The charge alleged that IFPTE Local 21 breached its duty of fair representation by failing to satisfactorily resolve an employment discrimination claim and failing to take a grievance to arbitration.	The Board upheld the dismissal of the charge on the ground that it was not timely filed, finding that the employee waited over one and one-half years after the union informed him that it would not take his case to arbitration before filing a charge.
2193	California School Employees Association & its Chapter 354 v. Red Bluff Union High School District	The parties requested to withdraw an unfair practice complaint and underlying charge pursuant to the parties' settlement agreement.	The Board granted the parties' request to withdraw the complaint and charge.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2194	Don E. Peavy, Sr. v. AFT Part-Time Faculty United, Local 6286	The charge alleged that AFT Part-Time Faculty United, Local 6286, breached its duty of fair representation by failing to assist charging party in filing a grievance and failing to take the grievance to arbitration.	The Board upheld the dismissal of the charge on the ground that it failed to state a prima facie case of violation of the duty of fair representation, finding that the union's failure to pursue his case did not foreclose his right to a remedy and that the charge failed to establish that the union's decision not to take the case to arbitration was arbitrary or lacking in good faith.
2195-H	California State University Employees Union v. Trustees of the California State University (San Marcos)	The charge and complaint alleged that CSU San Marcos retaliated against an employee for engaging in protected activity.	The Board dismissed the complaint based upon the parties' settlement agreement entered into prior to the hearing before the ALJ in which charging party agreed to withdraw the charge with prejudice.
2196-S*	California Correctional Peace Officers Association v. State of California (Department of Corrections & Rehabilitation, Avenal State Prison)	The charge alleged that CDCR failed to bargain the effects of a nonnegotiable unilateral change in policy concerning unannounced random searches at Avenal State Prison.	The Board dismissed the charge for failure to state a prima facie case of failure to bargain over the effects of a nonnegotiable decision, finding that charging party failed to request effects bargaining and failed to identify any negotiable effects arising out of the decision.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2197-S	California Correctional Peace Officers Association v. State of California (Department of Personnel Administration/ Department of Corrections and Rehabilitation)	The parties settled their dispute, and sought dismissal of PERB's complaint and withdrawal of the ALJ's decision.	The Board granted the parties' request to dismiss the complaint and vacated the proposed decision of the ALJ.
2198-M	Nathalie R. Harper v. Alameda County Management Employees Association	The charge alleged that the Alameda County Management Employees Association breached its duty of fair representation by failing to notify the charging party that her employer would not agree to include her position in the bargaining unit and by recommending in the course of disciplinary proceedings that charging party resolve the grievance by taking a severance package.	The Board issued a decision dismissing the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the charging party lacked standing and the duty of fair representation did not extend to extra-contractual remedies outside the union's exclusive control.
2199-M	Derrick C. O'Keefe v. Inlandboatmen's Union of the Pacific	The charge alleged that the Inlandboatmen's Union of the Pacific retaliated against the charging party for having engaged in protected activities of filing a PERB charge and assisting a co-worker in prosecuting a PERB charge.	The Board upheld the dismissal of the charge for failure to state a prima facie case of discrimination/retaliation, concluding that neither the employee organization's decision not to pursue charging party's grievance or its issuance to charging party of a letter of internal union reprimand constituted adverse action.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2200	Mendocino County Federation of School Employees, American Federation of Teachers, Local 4345 v. Mendocino County Office of Education	The charge alleged that the Mendocino County Office of Education failed to meet and negotiate in good faith.	The Board approved the withdrawal of the charge pursuant to a global settlement.
2201-H	Suzanne M. Scholz v. Trustees of the California State University (Long Beach)	On a request for repugnancy review after deferral to arbitration, the charge alleged that CSU Long Beach retaliated against a teacher by failing to assign her classes due to her prior grievances and PERB charge.	The Board dismissed the request for repugnancy review as untimely and for failure to establish that the arbitration award was repugnant to the purposes of HEERA.
2202-M	Michael Crandell v. Service Employees International Union, Local 1021	The charge alleged that SEIU Local 1021 breached its duty of fair representation by failing to grieve or arbitrate on charging party's behalf camera-phone stalking activities by the employer.	The Board upheld the dismissal of the charge for untimeliness and failure to state a prima facie violation of the duty of fair representation, concluding that charging party should have known by the union's refusal to process the grievance that further assistance was unlikely and that the charge failed to establish that the union's decision not to process the grievance was arbitrary, discriminatory or lacking in good faith.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2203-M*	City of Palmdale and Teamsters Local 911	The Teamsters petitioned for recognition as the exclusive representative of certain employees in City of Palmdale's public works department.	The Board affirmed a proposed decision granting the employee organization's petition to be certified as the exclusive representative of a bargaining unit of certain maintenance positions.
2203a-M*	City of Palmdale and Teamsters Local 911	The City requested reconsideration of the Board's decision granting the Teamsters' petition to be certified as the exclusive representative of a bargaining unit of certain maintenance positions.	The Board denied the request for reconsideration, finding that the request failed to establish grounds for reconsideration under PERB Regulation 32410.
2204-M	Michael Horan v. Service International Union, Local 1021	The charge alleged that SEIU Local 1021 breached its duty of fair representation by failing to represent charging party at an arbitration hearing that arose out of disciplinary proceedings.	The Board issued a decision dismissing the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the duty of fair representation did not extend to extra-contractual remedies outside the union's exclusive control and that charging party failed to establish the manner in which the union's action or inaction was without a rational basis or devoid of honest judgment.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2205	John W. Adams v. United Teachers of Los Angeles	Adams alleged that UTLA violated EERA section 3544.9 by failing to file a grievance and failing to enforce a settlement agreement. In amended charges and in his appeal, Adams contended that the Board agent was biased against him and requested that the Board agent disqualify himself.	The Board upheld the dismissal of an unfair practice charge. The Board also ruled that Adams failed to establish prejudice sufficient for Board agent disqualification, that is, that the Board agent demonstrated a fixed anticipatory judgment against Adams.
2206-M	Michael Crandell v. City & County of San Francisco	The charge alleged that the City & County of San Francisco retaliated against charging party by stalking him and photographing him using a cell phone during work time.	The Board upheld the dismissal of the charge for failure to state a prima facie case of discrimination/retaliation, concluding that the two instances of alleged camera-phone stalking did not constitute adverse action and, even if they did, there was no nexus, apart from close temporal proximity, between the protected activity and the retaliatory act.
2207-M	Michael Crandell v. City & County of San Francisco	The charge alleged that the City & County of San Francisco retaliated against charging party by terminating his employment.	The Board upheld the dismissal of the charge for failure to state a prima facie case of discrimination/retaliation, concluding that there was no nexus between the protected activity and the retaliatory act.
2208	Debra A. Davis v. California School Employees Association & its Chapter 724	The charge alleged that CSEA breached its duty of fair representation by failing to file grievance on charging party's behalf.	The Board affirmed the dismissal of the charge for failure to state a prima facie case of violation of the duty of fair representation.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2209-M	Derrick C. O'Keefe v. Golden Gate Bridge Highway & Transportation District	The charge alleged that the Golden Gate Bridge Highway & Transportation District retaliated against charging party for having engaged in the protected activity of participating in the PERB process.	The Board upheld the dismissal of the charge for failure to state a prima facie case of discrimination/retaliation, concluding that there was no nexus between the protected activity and the retaliatory act.
2210-S	Union of American Physicians & Dentists v. State of California (Department of Personnel Administration)	The charge alleged that the State of CA violated the Dills Act by unilaterally implementing a plan to furlough State employees three days a month pursuant to executive orders issued by then-Governor Arnold Schwarzenegger.	The Board affirmed the dismissal of the charge for failure to state a prima facie case of unlawful unilateral change based upon court authority.
2211-M	Alfred McKnight v. City of Santa Monica	The charge alleged that a probationary employee was rejected on probation in retaliation for utilizing his union to file grievances on his behalf.	The Board found that the evidence failed to establish a prima facie case of unlawful retaliation.
2211a-M	Alfred McKnight v. City of Santa Monica	The charging party requested reconsideration of the Board's decision dismissing an unfair practice charge and complaint alleging that a probationary employee was rejected on probation in retaliation for utilizing his union to file grievances on his behalf.	The Board denied charging party's request for reconsideration based upon a failure to establish a prejudicial error of fact.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2212	Santa Barbara Community College District and Teamsters Local Union No. 186	Teamsters Local Union No. 186 sought recognition as the exclusive representative of a proposed bargaining unit of certificated supervisors consisting of certificated deans and certificated directors of the Santa Barbara Community College District.	The Board determined that the proposed unit was appropriate, with the exclusion of specified managerial positions from the bargaining unit.
2213	Council of Classified Employees/AFT, Local 4522 v. Palomar Community College District	The charge alleged that the Palomar Community College District violated EERA when it unilaterally changed its discipline policy without providing AFT Local 4522 prior notice and opportunity to bargain.	The Board upheld the dismissal of the charge, finding that the discipline policy relied upon by the District did not expire when the parties' collective bargaining agreement was modified.
2214-S	State of California and Peace Officers of California and California Statewide Law Enforcement Association	The Peace Officers of California (POC) sought to sever from State Unit 7 (Protective Services and Public Safety). a group of peace officers. The ALJ denied the severance petition.	The Board held that: (1) under the Dills Act, peace officer employees are not statutorily entitled to a separate unit; and (2) POC failed to rebut the presumption that the existing unit is "more appropriate" than the proposed unit.
2215-M	Luella Warren v. Service Employees International Union, Local 1021	The charge alleged that SEIU Local 1021 breached its duty of fair representation by failing to file a grievance.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the charge failed to establish that the union's decision not to file a grievance was arbitrary, discriminatory or lacking in good faith.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2216-C	Vicki A. Haines v. Marin County Superior Court	The charge, filed by an individual, alleged that Marin County Superior Court violated the Trial Court Act by failing to meet and confer with SEIU Local 1012 over the layoff of four employees.	The Board upheld the dismissal of an unfair practice charge. Haines lacked standing to allege violations of the rights and duties that attach only to the exclusive representative and the employer.
2217-H	Regents of the University of California and Federated University Police Officers' Association	FUPOA sought to add police sergeants to its unit of rank-and-file police officers. The ALJ concluded that sergeants should be excluded from the rank-and-file unit in order to allow the Regents of the University of California to effectively achieve its mission without undue conflict of interest.	The Board upheld the ALJ's dismissal of a unit modification petition, finding that the sergeants were supervisors. Dismissal of FUPOA's petition does not deny sergeants the opportunity to have full and fair bargaining rights, because HEERA grants supervisors the right to their own representation.
2218	Pasadena City College Faculty Association v. Pasadena Area Community College District	The charge alleged that the Pasadena Area Community College District failed to bargain over the effects of its decision to cancel winter intersession classes.	The Board affirmed the dismissal of the charge for failure to state a prima violation of the duty bargain over the effects of a nonnegotiable decision, finding no evidence that the Association requested to bargain over the effects of the District's decision.
2219*	Carmen Baprawski v. Los Angeles Community College District	The charge alleged that the Los Angeles Community College District relocated an employee's office in retaliation for her filing a grievance and unfair practice charges with PERB.	The Board affirmed the dismissal of the charge for failure to state a prima facie case of retaliation, finding that the relocation of the office did not constitute an adverse action and that it was not taken for retaliatory reasons.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2220	Aminah Walker v. California School Employees Association & its Chapter 724	The charge alleged that the California School Employees Association & its Chapter 724 breached its duty of fair representation.	The Board affirmed the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation.
2221	Joyce Singer Abrams v. Chula Vista Elementary School District	The charge and complaint alleged that the Chula Vista Elementary School District retaliated against charging party for having engaged in protected activity.	The Board affirmed a proposed decision finding a violation, concluding that the denial of charging party's reapplication to be a support provider in the Beginning Teacher Support and Assessment (BTSA) Induction Program was an adverse action taken in retaliation for having engaged in protected organizational activity.
2222-M	Cecilia Jaroslowsky v. City & County of San Francisco	The charge alleged that the employer discriminated against Jaroslowsky based on her age and based on her protected activity and denied her right to union representation under <i>Weingarten</i> .	The Board affirmed the dismissal of an unfair practice charge for failure to state a prima facie case that the employer violated MMBA by: interfering with her <i>Weingarten</i> right to representation; and retaliating against her for engaging in protected activity. The Board dismissed alleged age discrimination for lack of jurisdiction. The Board refused to consider new matters presented on appeal, as charging party provided no reasons why those matters could not have been presented in the original or amended charge.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2223	Maritza Hayek, et al., v. Baldwin Park Education Association	The charge alleged that the Baldwin Park Education Association breached its duty of fair representation by failing to enforce contract terms relating to a salary schedule and a health benefits committee and by failing to negotiate a more favorable fringe benefits package.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the charge failed to establish that the union's negotiating conduct was lacking in good faith or honesty of purpose.
2224	LaDonya Milner v. California School Employees Association	The charge alleged that the California School Employees Association breached its duty of fair representation by failing to adequately assist the charging party with her concerns over actions by her employer.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation.
2225-M	Fidel Joshua v. SEIU Local 1021	The charge alleged that SEIU Local 1021 breached its duty of fair representation by failing to file a grievance on his behalf concerning his employment with the City and County of San Francisco, Recreation and Parks Department.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation.
2226-C	Deborah Diane Williams v. Operating Engineers Local 3	The charge alleged that the Operating Engineers Local 3 breached its duty of fair representation by failing to represent charging party following her termination from employment.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the charging party lacked standing to bring an unfair practice charge as a designated management employee under the Trial Court Act.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2227-M	Service Employees International Union Local 721 v. County of Ventura (Office of Agricultural Commissioner)	The charge alleged that the County of Ventura violated the MMBA when it unilaterally reduced an employee's work hours from ten days per pay period to six days per period.	The Board upheld the dismissal of the charge, finding that the finding that the parties' collective bargaining agreement included a clear and unmistakable waiver of the right to negotiate over the reduction in work hours.
2228-M	Riverside County Attorneys' Association v. County of Riverside	Union appealed partial dismissal of its unfair practice charge alleging that the employer violated MMBA by refusing to create a bargaining unit consisting of deputy county counsel.	The Board dismissed RCAA's appeal of a partial dismissal of an unfair practice charge because the appeal contained no factual information and set forth no issues of contention which RCAA had taken with the Board agent's partial dismissal.
2229-M	Thomas Pecore v. Fallbrook Public Utility District	Pecore appealed dismissal of amended charge, which was dismissed as untimely by the Board agent. Proof of service showed that the amended charge was mailed the day before it was due. District made no showing of prejudice.	The Board vacated the dismissal of an unfair practice charge and remanded the matter to the Office of the General Counsel for further investigation and processing because the Board found good cause to excuse Pecore's tardy filing of his amended charge.
2230-M	Teamsters Local 150, International Brotherhood of Teamsters v. Rio Linda/Elverta Community Water District	The charge alleged discrimination and retaliation for exercising protected rights, interference, and bad faith bargaining.	The Board granted charging party's request to withdraw appeal from dismissal of charge.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2231-M	Stanislaus Consolidated Firefighters, Local 3399 v. Stanislaus Consolidated Fire Protection District	The charge alleged that the Stanislaus Consolidated Fire Protection District violated its duty to negotiate in good faith when it unilaterally eliminated a negotiated contract provision relating to union access rights and retaliated against bargaining unit members for having engaged in protected activity of filing grievances by eliminating union access rights and the Union Time Bank.	The Board issued a decision reversing a partial dismissal of the charge and remanding the matter to the Office of the General Counsel for issuance of a complaint, concluding that the respondent committed an unlawful unilateral change by repudiating a negotiated contract provision relating to union access rights after the parties had reached tentative agreement and retaliated against unit members for having engaged in protected activities by eliminating union access rights and the Union Time Bank.
2231a-M	Stanislaus Consolidated Firefighters, Local 3399 v. Stanislaus Consolidated Fire Protection District	The Stanislaus Consolidated Fire Protection District requested reconsideration of the Board's decision reversing the dismissal of the unfair practice charge and remanding the matter to the Office of the General Counsel for issuance of a complaint.	The Board denied the request for reconsideration, finding that the request failed to establish grounds for reconsideration under PERB Regulation 32410.
2232	Julian Paul Lagos v. United Educators of San Francisco	The charge alleged that UESF breached its duty of fair representation by refusing to pursue Lagos' grievance to arbitration. Charge was dismissed by Office of General Counsel, although Lagos filed an amended charge within the deadline specified by the Board agent.	The Board vacated the dismissal and remanded the matter to the Office of the General Counsel for further investigation and processing of the amended charge.

2011-2012 DECISIONS OF THE BOARD

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2233-M	Service Employees International Union, Local 721 v. County of Riverside/County of Riverside v. Service Employees International Union, Local 721	The ALJ ruled that the employer violated the MMBA by denying access to non-work areas by non-employee agents of SEIU and that SEIU violated the MMBA by accessing non-union bulletin boards.	The Board held that the MMBA provides an implied right of access to non-employee agents of the union, subject to reasonable regulation which the employer demonstrates is necessary to the efficient operation of the employer's business and/or safety of its employees and others, and narrowly drawn to avoid interference with statutory rights. Here, the County violated the MMBA by preventing SEIU's non-employee agents from traversing some work areas and some patient care areas in the Riverside County Regional Medical Center in order to post and update SEIU materials on union bulletin boards designated for SEIU use. The Board held that requiring advance notice by the union before it accessed non-work areas was unreasonable and violated the MMBA. The Board ruled that the union violated the County's reasonable rule requiring advance notice of the union's non-employee agents access to work areas. The remedy ordered the employer to cease and desist from denying SEIU access to designated bulletin boards and to non-work areas for the purpose of speaking to employees during non-work time and to cease and desist from making unilateral changes in the access policy.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2234-S	Service Employees International Union, Local 1000 v. State of California (Department of Developmental Services)	The charge alleged that the State of CA (DDS) unilaterally transferred work outside the bargaining unit and failed to bargain over the installation of surveillance cameras in a work area. SEIU appealed the Board agent's partial dismissal of the charges.	The Board upheld the partial dismissal of an unfair practice charge because the charge failed to establish a prima facie case that DDS unlawfully transferred work out of the bargaining unit. The charge failed to allege that the work in question had been done previously and exclusively by unit members. The Board also upheld the dismissal of the charge concerning surveillance cameras because it was untimely.
2235	Colin Heron v. Santa Ana Unified School District	The charge alleged that a substitute teacher was terminated in retaliation for asserting his right to extra pay.	The Board dismissed the charge and complaint, finding that the decision to terminate was not based upon any protected activity.
2236-M	Laura Fowles v. Office & Professional Employees International Union, Local 29, AFL-CIO & CLC	The charge alleged that OPEIU Local 29 violated the MMBA and PERB Regulation 32992 by failing to inform charging party of her right not to become a union member and failing to adequately inform her of her rights as an agency fee payer.	The Board found that the charge stated sufficient facts to warrant issuance of a complaint.
2236a-M	Laura Fowles v. Office & Professional Employees International Union, Local 29, AFL-CIO & CLC	Request for reconsideration of decision directing issuance of complaint alleging failure to inform employee of rights as agency fee payer.	The Board issued a decision denying the request for reconsideration.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2237-S	Alfred Gutierrez v. State of California (Board of Equalization)	The charge and complaint alleged that the Board of Equalization denied charging party the right to be represented by his employee organization at an investigatory meeting and retaliated against him for engaging in protected activities.	The Board affirmed a proposed decision dismissing the unfair practice charge, concluding that <i>Weingarten</i> rights did not attach to the meeting and there was insufficient nexus between the protected activity and the adverse action for purposes of proving a discrimination/retaliation violation.
2238-M	San Juan Capistrano Management & Professional Employees Association v. City of San Juan Capistrano	The charge alleged that the employer violated MMBA by unilaterally using outside contracted labor to perform bargaining unit work. The Board agent dismissed the charge for failure to state a prima facie case. The Association appealed, but alleged that the Board agent erred by dismissing alleged violations of the City's personnel rules.	The Board affirmed the dismissal of the charge, as it alleged merely a violation of the City's personnel rules akin to a grievance, not a unilateral change in policy concerning contracting out. The Board ruled that it had no jurisdiction over the alleged violation of the personnel rules absent an allegation of unilateral change.
2239-M	Riverside Sheriffs' Association v. County of Riverside / Service Employees International Union, Local 721 and Laborers Local 777 (Interested Parties)	The charge alleged that the County violated the MMBA by denying the union's petitions for a unit modification. The local rule required a showing of 15 percent support in order to support a unit modification petition. The County interpreted this rule to require 15 percent of the donor unit to support the unit modification. Because such a showing would be virtually impossible, the ALJ decision found the denials an unreasonable interpretation of the local rule, and thus unlawful.	The Board affirmed the ALJ's determination that the County's interpretation of its unit modification rules was unreasonable and ordered the County to process the Association's petitions for unit modification.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2240	Jack Erwin v. California School Employees Association	The charge alleged that the California School Employees Association breached its duty of fair representation with respect to the involuntary transfer of the charging party by the Vallejo City Unified School District.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation.
2241	Lake Elsinore Teachers Association, CTA v. Lake Elsinore Unified School District	The charge alleged that the District retaliated against a probationary employee by not re-electing him for employment after he engaged in protected activity as a member of the bargaining team of the Association.	The Board upheld the dismissal of the unfair practice complaint and underlying charge based upon the failure to establish to that the District's decision was unlawfully motivated.
2242-M	SEIU Local 1021 v. County of Sonoma	The charge alleged that the County unilaterally changed its policy concerning retiree health insurance benefits by placing a prospective "cap" on premium contributions for future retirees.	The Board reversed a proposed decision and dismissed the unfair complaint and underlying charge, finding the charge untimely filed and failed to establish a prior agreement or practice of linking retiree health insurance benefits to the benefits received by current bargaining unit employees.
2243	Santa Monica College Faculty Association v. Santa Monica Community College District	The charge alleged that the District violated its duty to bargain in good faith during contract negotiations for a successor agreement by violating the parties' ground rules and engaging in surface bargaining.	The Board upheld the dismissal of the charge for untimeliness and for failure to state a prima facie violation of the duty to bargain in good faith, concluding that the charging party failed to establish sufficient indicia of bad faith bargaining.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2244	Kennon B. Raines v. Los Angeles Unified School District	The charge alleged that the District retaliated against an employee for having engaged in protected activities by barring her from working as a substitute teacher at one school and by reducing her work assignments pursuant to an audit.	The Board upheld the dismissal of the charge with respect to the reduction in work assignment and remanded the case for issuance of a complaint with respect to the removal from working at a school.
2245-I	Janice Zhang v. California Media Workers Guild/CWA/ Local 39521	The charge alleged that the California Media Workers Guild/CWA breached its duty of fair representation by rejecting charging party's request for representation.	The Board upheld the dismissal of the charge for untimeliness and failure to state a prima facie violation of the duty of fair representation, concluding that the charge failed to establish that the charge was filed within six months of the date when the charging party knew or should have known that further assistance from the union was unlikely or that the union's decision not to provide representation was arbitrary, discriminatory or lacking in good faith.
2246-M	Patricia W. Gordon v. City of Santa Monica	The charge alleged that the City engaged in a variety of unlawful conduct including denial of raises and promotions, interference with union representation by rejecting information requests, retaliation and intimidation.	The Board upheld the partial dismissal of the charge for untimeliness and for failure to state a prima facie case, concluding that charging party's alleged instances of adverse action were untimely and charging party lacked standing as an individual employee to pursue an allegation that the employer engaged in bad faith bargaining by failing to comply with an information request.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2247-M	Cassandra Smith v. SEIU United Long Term Care Workers	The charge alleged that SEIU United Long Term Care Workers breached its duty of fair representation by failing to assist the charging party in getting paid properly.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation.
2248-M	Laborers International Union of North America, Local 777 v. County of Riverside	After the case was docketed on the Board's calendar, LIUNA notified it that the parties had settled the dispute and it wished to withdraw its appeal of the Board agent's partial dismissal of its unfair practice charge.	The Board granted LIUNA's request to withdraw the appeal of the partial dismissal, as withdrawal is in the best interests of the parties and consistent with the purposes of MMBA.
2249-M	National Union of Healthcare Workers v. SEIU-United Healthcare Workers West	<p>The charge alleged that SEIU violated the MMBA during a decertification election conducted by the State Mediation and Conciliation Service under the Public Authority's adopted local rules. The election was conducted in a unit of IHSS providers.</p> <p>The Board agent dismissed the charges of election misconduct for failure to state a prima facie case because, among other reasons, NUHW did not identify by name the individuals who were allegedly agents of SEIU when they engaged in allegedly intimidating conduct. NUHW appealed the dismissal.</p>	<p>The Board determined that because the election was conducted by State Mediation under the Public Authority's local rules, and not by PERB under PERB's regulations, PERB lacked jurisdiction to entertain NUHW's allegations as objections to the election. Instead, the allegations would be treated as an unfair practice charge based on alleged interference with the exercise of employee rights. The Board held that alleged election misconduct must be assessed under a totality of circumstances analysis.</p> <p>Allegations that SEIU agents: (1) obtained unsupervised access to marked ballots and otherwise interfered with balloting by bargaining unit members; (2) engaged in</p>

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
			physical and verbal threats toward bargaining unit members; (3) misrepresented information to bargaining unit members; and (4) unlawfully destroyed and/or removed bargaining unit members' personal property, were sufficient to state a prima facie case despite the fact that NUHW did not identify by name the alleged agents of SEIU that engaged in the conduct.
2250-S	California Correctional Peace Officers Association v. State of California (Department of Corrections and Rehabilitation)	The unfair practice charge alleged that the employer violated the MMBA by failing to negotiate over scheduling changes of casework managers at the Division of Juvenile Justice and the scheduling of correctional officers and the California Rehabilitation Center. CCPOA appealed the dismissal of these charges. After the appeal was filed, the parties settled their dispute concerning the scheduling of casework specialists and requested that PERB dismiss CCPOA's appeal.	The Board dismissed the appeal regarding the scheduling of caseworkers and remanded to the Office of General Counsel for either issuance of a complaint or dismissal of the allegations regarding the schedule changes for correctional officers.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2251-M*	Glendale City Employees Association v. City of Glendale	The charge alleged that the City of Glendale refused to meet and confer in good faith during negotiations for a successor memorandum of understanding.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty to bargain in good faith, concluding that the charge failed to establish that respondent engaged in surface bargaining, maintained a take-it-or-leave-it attitude, or negotiated to impasse a non-mandatory subject of bargaining.
2252-M	SEIU Local 1021 v. County of Calaveras	The charge alleged that the County of Calaveras violated the MMBA and its local rules by approving a mixed unit of peace officer and non-peace officer classifications requested in a severance petition and by unilaterally selecting a neutral third party representative as election supervisor.	The Board reversed a proposed decision and dismissed the charge for failure to establish a violation of the MMBA.
2253-H	Werner Witke v. UPTE-CWA Local 9119	The charge alleged that UPTE-CWA violated PERB regulations requiring that agency fee challenge hearings be fair proceedings conducted in conformance with basic precepts of due process because charging party did not receive adequate pre-hearing notice from the American Arbitration Association arbitrator of the agency fee challenge hearing.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of PERB regulations, concluding that the charge failed to allege facts demonstrating that PERB should not defer to the decision of arbitrator regarding the adequacy of the pre-hearing notice.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2254-H	Coalition of University Employees v. Regents of the University of California (Santa Barbara)	The charge alleged UC Santa Barbara retaliated against an employee with a noise sensitivity by telling her to remove barrier and stop scolding other employees, interfered with her right to contact employees about safety violations, and made a unilateral change concerning requests for information.	The Board approved the withdrawal of the unfair practice charge pursuant to a global settlement.
2255-H	Coalition of University Employees v. Regents of the University of California (Irvine)	The charge alleged UC Irvine unilaterally changed its policy requiring employees to receive influenza immunizations or wear surgical masks.	The Board approved the withdrawal of the unfair practice charge pursuant to a global settlement.
2255a-H	Coalition of University Employees v. Regents of the University of California (Irvine)	The parties jointly requested that the Board amend or reconsider its prior decision in PERB Decision No. 2255-H so as to permit withdrawal of the parties' exceptions to the ALJ's proposed decision, based upon a settlement reached between the parties.	The Board granted the parties' request for reconsideration to reflect parties' settlement agreement.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2256	Mark A. Cauble v. Barstow College Faculty Association	The charge alleged that the Barstow College Faculty Association breached its duty of fair representation by entering into a memorandum of understanding modifying the collective bargaining agreement regarding adjunct instructor evaluations without providing proper notice, requiring a quorum or giving the membership a vote pursuant to the bylaws.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the allegations concerned internal union affairs and that the charging party failed to establish that these internal union affairs had a substantial impact on the employer-employee relationship or that the union's bargaining conduct was lacking in good faith or honesty of purpose.
2257-H	Coalition of University Employees, Local 4 v. Regents of the University of California (Los Angeles)	The charge and complaint alleged that UCLA failed to bargain in good faith by unilaterally changing job descriptions and performance standards.	The Board approved the withdrawal of the charge pursuant to a global settlement.
2258	SEIU Local 221 v. County of San Diego	The charge alleged the County of San Diego retaliated against an employee by involuntarily transferring him for having engaged in protected activities.	The Board upheld the dismissal of the charge for failure to state a prima facie case of retaliation.
2259*	Del M. Grace v. Beaumont Teachers Association/CTA	The charge alleged that the Beaumont Teachers Association/CTA breached its duty of fair representation by failing to represent charging party regarding the school district's failure to provide her with timely notice of her non-reelection.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the charge failed to establish that the union's conduct was arbitrary, discriminatory or lacking in good faith.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2260*	Del M. Grace v. Beaumont Teachers Association/CTA	The charge alleged that the Beaumont Teachers Association/CTA breached its duty of fair representation regarding the handling of a grievance.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the charge failed to establish that the union's conduct was arbitrary, discriminatory or lacking in good faith.
2261-M	Solomon Sahle v. Service Employees International Union, Local 1021	The ALJ found that SEIU had breached its duty of fair representation by failing to initiate or grieving the denial of a reclassification study on behalf of Sahle, a matter that was not included in the complaint. The complaint did allege that SEIU had breached the duty of fair representation by failing to produce a copy of a settlement agreement Sahle had entered into with his employer and by failing to respond to his inquiries. The ALJ found that SEIU had violated the MMBA as alleged in the complaint.	The Board dismissed the complaint, holding that SEIU did not breach its duty of fair representation because it did respond to Sahle's inquiries and it did not have the document he sought. There was no agreement between Sahle and the employer guaranteeing a promotion, so SEIU did not breach any duty by failing to obtain or provide documentation of such an agreement. PERB refused to consider the unalleged violation regarding the reclassification study because respondent had insufficient notice that this violation was being litigated, the conduct was not intimately related to the subject matter of the complaint, the matter was not fully litigated, and the parties had no opportunity to examine and cross examine on the MOU provisions regarding reclassification.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2262	Mutual Organization of Supervisors v. Fairfield-Suisun Unified School District	The complaint alleged that the employer unilaterally changed its discipline policy as set forth in the parties' collective bargaining agreement, when it terminated a MOS unit employee without following the progressive discipline steps and relied instead on a "zero tolerance" policy with respect to the employee's alleged refusal to submit to a random controlled substance and/or alcohol test. The Hearing Officer concluded that the termination in question complied with contractual procedure, and dismissed the complaint.	The Board overturned the proposed decision and ordered the District to cease and desist from enforcing as to MOS unit employees a zero tolerance provision with respect to an employee's alleged refusal to submit to a random controlled substance and/or alcohol test, and to pay back pay and benefits with 7 percent interest per annum. The Board held that adoption of the "zero tolerance" policy unilaterally changed the discipline policy without providing the union notice and an opportunity to bargain.
2263-M	Amalgamated Transit Union, Local 1605 v. Central Contra Costa Transit Authority	The charge alleged that the Central Contra Costa Transit Authority retaliated against the union president for having engaged in protected activity of meeting with management to discuss a personnel matter involving another employee.	The Board issued a decision reversing the dismissal of the charge and remanding the matter to the Office of the General Counsel for further investigation on the underlying charge allegations, concluding that PERB's jurisdiction extended to the employer, a joint powers agency.
2264	Teresa Sanders v. Los Angeles County Education Association	The charge alleged the Los Angeles County Education Association violated its duty of fair representation by failing to represent an employee after she was banned from two school sites.	The Board upheld the dismissal of the charge for failure to state a prima facie case of breach of the duty of fair representation.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2265	Loreena Lynn Collins v. Oxnard Union High School District	The charge alleged that the Oxnard Union High School District retaliated against charging party for engaging in protected activity of seeking the union's assistance with a grievance by reducing her hours and claiming that a student complaint had been made against her.	The Board upheld the dismissal of the charge for failure to state a prima facie case of discrimination/retaliation, concluding that the reduction in hours occurred before the protected activity and therefore could not form the basis of a retaliation charge and the allegation concerning the student complaint was not on its face objectively adverse.
2266	Loreena Lynn Collins v. Oxnard Federation of Teachers	The charge alleged that the Oxnard Federation of Teachers breached its duty of fair representation by refusing to arbitrate a grievance and making a threatening statement.	The Board upheld the dismissal of the charge for failure to state a prima facie violation of the duty of fair representation, concluding that the charge failed to establish that the union's decision not to arbitrate the grievance was arbitrary, discriminatory or lacking in good faith or that the threatening statement had any impact on the employer-employee relationship.
2267-M	Melvin Jones, Jr. v. County of Santa Clara	The charge alleged the County of Santa Clara engaged in unlawful retaliation, interference and denial of the right to union representation releasing an employee on probation for having filed grievances.	The Board upheld the dismissal of the charge and complaint for failure to establish unlawful conduct.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2268	Berkeley Council of Classified Employees v. Berkeley Unified School District	The ALJ concluded that the District unlawfully insisted to impasse on a non-mandatory subject of bargaining during successor agreement negotiations with the Berkeley Council of Classified Employees, and violated EERA section 3543.5(a), (b) and (c) by insisting on renewing a provision that permitted the District to withhold wages of employees in the event of a wage overpayment.	The Board affirmed the ALJ's decision, holding that the employer's proposal conflicted with the Labor Code's protections against prejudgment garnishment of wages, statutory rights that could not be waived by collective bargaining. The District was ordered to re-open negotiations upon request without maintaining this proposal, or in the alternative, to withdraw the proposal and execute the remaining agreement.
2269	Nathaniel Chukwu v. Los Angeles Unified School District	The charge alleged that the Los Angeles Unified School District retaliated against charging party for having engaged in protected activity.	The Board approved the withdrawal of the charge pursuant to a global settlement.
2270	Centinela Valley Union High School District v. Centinela Valley Secondary Teachers Association	The charge alleged that the Centinela Valley Secondary Teachers Association violated EERA section 3543.6(a) by failing to reimburse the Centinela Valley Union High School District for compensation provided to union officials for union leave time as required by the Education Code.	The Board upheld the dismissal of the charge for failure to comply with the requirements for filing an appeal from dismissal of an unfair practice charge.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2271-M	Davis City Employees Association v. City of Davis	The charge and complaint alleged that the City of Davis violated the MMBA by implementing its last, best and final offer without exhausting impasse resolution procedures set forth in the City's applicable local rules.	The Board issued a decision finding a violation by the City.
2272-M	Union of American Physicians & Dentists v. County of Ventura	The charge and complaint alleged that the County of Ventura failed and refused to bargain in good faith during negotiations for an initial memorandum of understanding.	The Board issued a decision vacating the proposed decision and remanding the matter to the ALJ to conduct a further expedited formal hearing on the jurisdictional issue of whether the County is a joint employer of physician employees employed by privately owned medical clinics.
2273	Diana Garchow, et al. v. Standard School District	The charge alleged that the Standard School District failed to comply with the public notice requirements of EERA section 3547.	The Board upheld the dismissal of the charge as untimely and for failure to state a prima facie case.
2274	Richard Hood v. Fillmore Unified Teachers Association	The charge alleged that the Fillmore Teachers Association breached its duty of fair representation and interfered with protected rights by denying an employee an equal right to participate in a contract ratification vote.	The Board upheld the dismissal of the charge for failure to state a prima facie case of breach of the duty of fair representation or interference.

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DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
2275	Nathaniel Harris v. Service Employees International Union Local 1021	The charge alleged that SEIU beached its duty of fair representation by failing to represent him.	The Board upheld the dismissal of the charge for untimeliness and for failure to state a prima facie violation of the duty of fair representation, concluding that some of the allegations were not filed within the six-month limitations period and the remaining allegations failed to establish that SEIU's conduct was arbitrary, discriminatory or lacking in good faith.
2276-M	Carlsbad City Employees Association v. City of Carlsbad	After an appeal from a dismissal of an unfair practice charge was docketed, the Office of General Counsel requested that the case be remanded for further investigation, as the charge had been prematurely dismissed.	The Board remanded the case to the Office of General Counsel for further processing.
2277-M	Cuauhtemoc Wally Gutierrez v. Service Employees International Union, Local 221	The charge and complaint alleged that SEIU retaliated against charging party for having engaged in protected activities and unreasonably suspended his union membership.	The Board affirmed the proposed decision ordering the complaint and unfair practice charge dismissed, concluding that charging party did not prove a retaliation violation and, by advocating as shop steward that unit members drop their union membership, charging party's conduct justified the union's self-protective response in suspending his membership.

*Judicial review of Board decision pending.

2011-2012 DECISIONS OF THE BOARD

ADMINISTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-390-M	City of Inglewood and Inglewood Police Civilians Association and Service Employees International Union, Local 721	The Inglewood Police Civilian Association filed a severance petition seeking to sever 13 classifications from the City of Inglewood's General Employees Bargaining Unit.	The Board upheld the Board agent's dismissal of the petition, concluding that the Board lacked jurisdiction given that severance can be achieved under local rules.
Ad-391-M	Oluchi Nnachi v. City & County of San Francisco	The charge alleged that the City and County of San Francisco violated the MMBA by demoting an employee without regard to his seniority rights. A motion to accept a late-filed appeal was filed.	The Board granted the motion to accept the late-filed appeal for good cause shown and upheld the dismissal of the charge for failure to establish a prima facie case of discrimination under the MMBA.
Ad-392-M	Stanislaus Consolidated Firefighters, Local 3399 v. Stanislaus Consolidated Fire Protection District	The Stanislaus Consolidated Fire Protection District failed to file its response to the union's appeal from a partial dismissal of an unfair practice charge in a timely fashion.	The Board upheld the administrative determination by the Appeals Assistant that the response was untimely, concluding that there was no good cause to excuse the untimeliness.
Ad-393	Santa Monica College Faculty Association v. Santa Monica Community College District	The Santa Monica Community College District failed to file its response to the union's appeal from a dismissal of an unfair practice charge in a timely fashion.	The Board reversed the administrative determination by the Appeals Assistant that the response was untimely, concluding that there was good cause to excuse the untimeliness.

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ADMINISTRATIVE DETERMINATIONS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
Ad-394-M	Stanislaus Consolidated Firefighters, Local 3399 v. Stanislaus Consolidated Fire Protection District	The Stanislaus Consolidated Fire Protection District failed to file its request for an extension of time to file a request for reconsideration in a timely fashion.	The Board upheld the administrative determination by the Appeals Assistant that the request for extension was untimely, concluding that there was no good cause to excuse the untimeliness, and even if there were, there was no merit to the request for reconsideration.
Ad-395	Joseph B. Corrigan v. Federation of United School Employees, Local 1212	Corrigan sought to excuse late filing of his appeal from dismissal on the ground that he had moved his residence. Despite this address change, Corrigan received the dismissal letter five days after it had been mailed. Under the Board's rules, he then had 20 days within which to file his appeal. He did not do so. In his motion to excuse late filing he failed to explain why he could not have filed the appeal within the 20 days.	The Board declined to excuse the late filing, ruling good cause was not shown.

2011-2012 DECISIONS OF THE BOARD

JUDICIAL REVIEW REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION	DISPOSITION
J.R.-26-H	Regents of the University of California and Coalition of University Employees	The Coalition of University Employees filed a request for judicial review of the Board's decision in <i>Regents of the University of California</i> (2011) PERB Decision No. 2185-H, concerning a unit modification petition.	The Board denied the petition for judicial review.

2011-2012 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 601	International Association of Firefighters, Local 1319, AFL-CIO v. City of Palo Alto	Whether the City should be enjoined from proceeding with an election based on a complaint alleging that it violated the MMBA (Gov. Code, § 3507, subd. (a)) by failing to consult in good faith with the Union before proposing a ballot measure that would repeal a charter provision, which has since 1978 provided for binding interest arbitration, and before adopting an ordinance that would provide a new procedure (involuntary mediation) for resolving impasse disputes.	Request withdrawn after a pre-complaint settlement conference, with the underlying charge and complaint placed in abeyance.
I.R. 602	San Mateo County Firefighters, IAFF Local 2400 v. Menlo Park Fire Protection District	Whether the District should be enjoined from imposing certain terms and conditions of employment based on a complaint alleging that it violated the MMBA by engaging in bad faith "piecemeal" bargaining, making an unlawful unilateral change to existing benefits, and repudiating two different settlement agreements.	Request denied.
I.R. 603	City of San Jose v. International Brotherhood of Electrical Workers, Local 332 & Operating Engineers Local Union #3	Whether Unions representing City employees at a Water Pollution Control Plant should be enjoined based on allegations that they violated the MMBA by initiating a strike or other work stoppage by certain essential employees, who had left work without completing their assigned shifts or refused to cross an "area standards" picket line directed at a private contractor working at the plant.	Request denied.

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INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 604	SEIU Local 521 v. County of Kings	Whether the County should be enjoined from proceeding with a decertification election based on a complaint alleging that it violated the MMBA by: (1) revoking a three-year "contract bar" rule during the term of a three-year MOU with SEIU Local 521 in order to favor a competing union, the California League of City Employees Association (CLOCEA); (2) moving the remaining "window period" from January 2012 to July 2011 so as to favor CLOCEA; (3) scheduling a decertification election to be conducted by the State Mediation and Conciliation Service (SMCS) in early September 2011; (4) limiting SEIU representatives' access to bargaining unit employees during the summer of 2011; and (5) discouraging employees from supporting SEIU in the decertification election.	Request granted, with the election stayed and the administrative proceedings expedited.
I.R. 605	International Association of Fire Fighters, Local 1319, AFL-CIO v. City of Palo Alto	This was a renewal of the request in I.R. 601, with the same issues presented.	Request denied.
I.R. 606	McFarland Teachers Association v. McFarland Unified School District	Whether the District should be enjoined from calling a witness in a teacher termination hearing based on a complaint alleging that it violated the EERA by subpoenaing the Association's President to testify about a confidential consultation he had with the teacher, and thereby interfered with employee rights and the rights of the Association to act as the exclusive representative of the bargaining unit.	Request denied.

2011-2012 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 607	SEIU-United Healthcare Workers West v. El Camino Hospital District	Whether the District should be enjoined from proceeding with a decertification election based on a complaint alleging that it violated the MMBA by processing and scheduling an election based on a decertification petition that did not comply with local rules, which prescribe the contents of a valid petition and procedures for unit modifications.	Request denied, with the election stayed and the administrative proceedings expedited.
I.R. 608	SEIU Local 1021 v. County of Mendocino	Whether the County should be enjoined from imposing its last, best, and final offer (LBFO) based on a complaint alleging that it violated the MMBA by reneging on a tentative agreement reached with the assistance of a SMCS mediator and signed by both parties, by prematurely declaring impasse, and by failing to respond to certain requests for information necessary and relevant to the negotiations.	Request denied.
I.R. 609	SEIU United Healthcare Workers West v. El Camino Hospital District	Whether the District should be enjoined from imposing its LBFO based on a complaint alleging that it violated the MMBA by failing to meet and confer in good faith before declaring impasse, refusing to provide information requested by the Union, violating the impasse procedures in its local rules, and unilaterally implementing a new health plan.	Request denied.

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INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 610	SEIU Local 1021 v. Mendocino County Superior Court	Whether the Court should be enjoined from imposing its LBFO based on a complaint alleging that it violated the Trial Court Act by failing to meet and confer in good faith, carrying out a retaliatory layoff of its Jury Services Coordinator, transferring her work out of the bargaining unit, failing or refusing to provide information requested by the Union, refusing to set meeting dates, engaging in intimidating conduct during bargaining, prematurely declaring impasse, illegally modifying employee pension contributions, and refusing to bargain over the layoff of the Jury Services Coordinator.	Request denied.
I.R. 611	San Mateo County Firefighters, IAFF Local 2400 v. Menlo Park Fire Protection District	This was a renewal of the request in I.R. 602, alleging that the District was continuing to violate the MMBA by engaging in bad faith "piecemeal" and regressive bargaining, and implementing a series of unlawful unilateral changes in terms and conditions of employment.	Request denied.
I.R. 612	SEIU Local 521 v. County of Fresno	Whether the County should be enjoined from imposing its LBFO based on a complaint alleging that it violated the MMBA by prematurely declaring impasse, implementing its LBFO before reaching impasse, failing or refusing to provide requested information, interfering with communications between SEIU and employees it represents in 5 County bargaining units.	Request denied.

2011-2012 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 613	California Nurses Association/National Nurses United v. County of Fresno	Whether the County should be enjoined from imposing its LBFO based a complaint alleging that it violated the MMBA by prematurely declaring impasse, implementing its LBFO before reaching impasse, insisting to impasse on and unilaterally implementing unlawful terms and conditions of employment, failing or refusing to provide requested information, and interfering with protected activity.	Request denied.
I.R. 614	County of Riverside v. SEIU Local 721	Whether SEIU Local 721 and more than 500 registered nurses and other employees represented by the Union in six bargaining units at the Riverside County Regional Medical Center and County detention and psychiatric facilities, should be enjoined from engaging in a one-day, post-impasse strike for which the County had received a ten-day strike notice, based on a complaint alleging that a strike by "essential employees" would pose a substantial and imminent danger to public health and safety and would, to that extent, violate the MMBA.	Request granted.
I.R. 615	San Diego Municipal Employees Association v. City of San Diego	Whether the City should be enjoined from proceeding with an election on a local ballot measure entitled "Comprehensive Pension Reform Initiative (CPRI)," based on a complaint alleging that it violated the MMBA by refusing to meet and confer with the Union before placing the measure—which was proposed, drafted, funded, and promoted by the Mayor and Chief Labor Negotiator, two City Council Members, and other City agents—on the ballot.	Request granted.

2011-2012 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 616	Calexico Unified School District v. Associated Calexico Teachers	Whether the Association should be enjoined from picketing near a supermarket where a member of the District's Board of Trustees is employed, based on a charge alleging that such conduct violated the EERA.	Request denied.
I.R. 617	Deputy City Attorneys Association of San Diego v. City of San Diego	This was essentially a joinder in the request in I.R. 615, with the same issues presented.	Request granted.
I.R. 618	Melvin Jones Jr. v. County of Santa Clara	Whether the County should be enjoined to restore Jones's health benefits to prevent irreparable harm he claimed to be suffering as a result of his discharge in 2009, allegedly in retaliation for filing grievances, which was the subject of his then pending appeal to the Board after a formal hearing on a complaint under the MMBA.	Request denied.
I.R. 619	Public Employees Union Local 1 v. City of Yuba City	Whether the City should be compelled to conduct a decertification election based on a complaint alleging that it violated the MMBA by refusing to process a decertification petition filed by the PEU, citing an unlawful premature extension of its MOU with the incumbent Union, which prevented the opening of any "window period."	Request withdrawn.
I.R. 620	Melvin Jones Jr. v. County of Santa Clara	This was a renewal of the request in I.R. 618, with the same issue presented.	Request denied.

2011-2012 DECISIONS OF THE BOARD

INJUNCTIVE RELIEF REQUESTS

DECISION NO.	CASE NAME	DESCRIPTION (ISSUES PRESENTED)	DISPOSITION
I.R. 621	Wenjiu Liu v. Trustees of the California State University (East Bay)	Whether CSU should be enjoined to continue Liu's employment and reverse its decision to deny him tenure as a professor based on a complaint alleging that it had retaliated against him in violation of the HEERA for filing grievances relating to a disciplinary suspension, denial of tenure, and termination of his employment—some of which were pending in the University's grievance and arbitration process.	Request denied.

2011-2012 LITIGATION CASE ACTIVITY

1. *Coalition of University Employees, Teamsters Local 2010, IBT (CUE) v. PERB; Regents of the University of California*, Sacramento Superior Court Case No. 010-80000574, California Court of Appeal, Third Appellate District, Case No. C067192 (PERB Case No. SF-CE-905-H). Issue: Should PERB be ordered to (1) make a determination in SF-CE-905-H; (2) increase the pay and duration involved in a fact-finding case between CUE and UC; and (3) stay any further fact-finding proceedings pending resolution of this case. In June 2010, CUE filed a petition for writ of mandamus, which was denied by the superior court in November 2010. CUE filed a notice of appeal in January 2011. With the case almost fully briefed, the Court of Appeal dismissed the petition at CUE's request on December 14, 2011. The case is now complete.
2. *PERB; Regents of the University of California (UC) v. California Nurses Association (CNA)*, San Francisco Superior Court Case No. CGC-10-500513, IR Request No. 583 (PERB Case No. SA-CO-114-H). Issue: Should registered nurses represented by CNA in UC's Registered Nurse Bargaining Unit be enjoined from participating in a threatened one-day strike at UC's medical centers, facilities, and locations? A complaint for injunctive relief was filed in superior court in June 2010. In July 2010, the court granted PERB's request for a preliminary injunction, enjoining CNA-represented nurses in UC's Registered Nurse Bargaining Unit from striking during their working hours at UC's medical centers, facilities, "until the latest of: (i) the current collective bargaining agreement between CNA and UC expires; or (ii) all statutory impasse and fact-finding procedures under [HEERA] have been exhausted regarding the negotiations between CNA and UC for a successor agreement." On May 11, 2011, the parties negotiated a successor agreement, including a no-strike clause, which controls through July 30, 2013. Based on these events, PERB filed a request for dismissal, which was entered on January 20, 2012. The case is now complete.
3. *Santa Clara County Correctional Peace Officers Association (SCCCPOA) v. PERB; County of Santa Clara*, California Court of Appeal, Sixth Appellate District, Case No. H035786 (PERB Case No. SF-CE-228-M). Issue: Did PERB err in Decision No. 2114-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary remedy was not appropriate)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in July 2010. Briefing was completed in May 2011. On December 29, 2011, the Court of Appeal summarily denied the petition. The case is now complete.
4. *County of Santa Clara v. PERB; Santa Clara County Correctional Peace Officers Association (SCCCPOA)*, California Court of Appeal, Sixth Appellate District, Case No. H035791 (PERB Case No. SF-CE-228-M). Issue: Did PERB err in Decision No. 2114-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary remedy was not appropriate)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5,

subd. (a)) was filed in July 2010. Briefing was completed in May 2011. On December 29, 2011, the Court of Appeal summarily denied the petition. The case is now complete.

5. *Santa Clara County Registered Nurses Professional Association (RNPA) v. PERB; County of Santa Clara*, California Court of Appeal, Sixth Appellate District, Case No. H035804 (PERB Case No. SF-CE-229-M). Issue: Did PERB err in Decision No. 2120-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary remedy was not appropriate)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in July 2010. Briefing was completed in May 2011. On December 29, 2011, the Court of Appeal summarily denied the petition. The case is now complete.

6. *County of Santa Clara v. PERB; Santa Clara County Registered Nurses Professional Association (RNPA)*, California Court of Appeal, Sixth Appellate District, Case No. H035846 (PERB Case No. SF-CE-229-M). Issue: Did PERB err in Decision No. 2120-M (ruling that the County failed to negotiate in violation of the MMBA with respect to one charter amendment regarding prevailing-wages, but not one regarding interest-arbitration [finding the latter outside the scope of representation], and further ruling that a monetary remedy was not appropriate)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in July 2010. Briefing was completed in May 2011. On December 29, 2011, the Court of Appeal summarily denied the petition. The case is now complete.

7. *County of Riverside v. PERB; SEIU Local 721*, California Court of Appeal, Fourth Appellate District, Division Two, Case No. E051351; (PERB Case Nos. LA-CE-447-M, LA-CE-482-M). Issue: Did PERB err in Decision No. 2119-M by (affirming an ALJ and finding in relevant part that statements by County supervisors and County officials were threats of reprisal that violated the MMBA)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in July 2010. Briefing was completed in April 2011. On August 1, 2011, the Court of Appeal denied the petition and lifted a stay previously imposed, and the case was complete as to that court.

8. *Association of Building, Mechanical and Electrical Inspectors (ABMEI) v. PERB; City of San Jose*, California Court of Appeal, Sixth Appellate District, Case No. H036362 (PERB Case No. SF-CO-168-M). Issue: Did PERB err in Decision No. 2141-M (reversing an ALJ's dismissal of underlying charge, which alleged ABMEI violated the MMBA by picketing four private construction sites on three separate days, thereby engaging in conduct constituting unlawful pressure tactics in violation of the duty to meet and confer in good faith)]? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in December 2010. Briefing was completed in July 2011. On December 19, 2011, the Court of Appeal summarily denied the petition. The case is now complete.

9. *CSEA, Chapter 401 v. PERB; Castaic Union School District*, California Court of Appeal, Second Appellate District, Case No. B230002 (PERB Case No. LA-UM-799-E). Issue: Did PERB err in Order No. Ad-384 (reversing a Board Agent's decision and denying a unit modification petition that was filed by CSEA to add part-time playground positions, to a

wall-to-wall classified bargaining unit)? A petition for writ of extraordinary relief (Gov. Code, § 3542, subd. (b)) was filed in January 2011. Legislation to address this decision, Assembly Bill 501 (Chapter 674, Statutes of 2011), was signed by the Governor and chaptered on October 9, 2011. On January 13, 2012, CSEA filed a request for dismissal of its writ petition. On January 18, 2012, the Court granted CSEA's request, and the case is now complete.

10. *Woods v. PERB; State of Calif. (Department of Corrections and Rehabilitation)*, California Court of Appeal, Third Appellate District, Case No. C067447 (PERB Case No. SA-CE-1640-S). Issue: Did PERB err in Decision No. 2136-S (dismissing Woods' charge alleging unlawful discrimination based on her rejection during probation)? A petition for writ of extraordinary relief (Gov. Code, § 3520, subd. (b)) was filed in February 2011. Briefing was completed in September 2012. On September 20, 2012, the petition was summarily denied. The case is now complete.

11. *Salas v. PERB; City of Alhambra*, California Court of Appeal, Second Appellate District, Case No. B231481 (PERB Case No. LA-CE-513-M). Issue: Did PERB err in Decision No. 2161-M (reversing ALJ and dismissing Salas' charge alleging unlawful retaliation based on his termination from his probationary position)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in March 2011. Briefing was completed in October 2011. On December 20, 2011, the petition was summarily denied. The case is now complete.

12. *CDF Firefighters v. PERB; State of California (CAL FIRE)*, California Court of Appeal, Third Appellate District, Case No. C067592 (PERB Case No. SA-CE-1735-S). Issue: Did PERB err in Decision No. 2162-S (dismissing CDF Firefighters charge seeking to: (1) include retired annuitants in bargaining unit 8 [fire fighters]; and (2) collect fair share fees from such individuals)? A petition for writ of extraordinary relief (Gov. Code, § 3520, subd. (b)) was filed in March 2011. Briefing was completed in January 2012. On February 9, 2012, the petition was summarily denied. The case is now complete.

13. *County of Riverside v. PERB; SEIU, Local 721*, California Court of Appeal, Fourth Appellate District, Division Two, Case No. E053161 (PERB Case No. LA-CE-497-M). Issue: Did PERB err in Decision No. 2163-M (affirming the ALJ's determination that the County violated the MMBA by refusing to process SEIU's petition to accrete per diem employees into three existing bargaining units)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in March 2011. Briefing was completed in January 2012. On April 11, 2012, the petition was summarily denied. The case is now complete.

14. *Moore v. PERB; AFSCME, Council 36 & Housing Authority for the City of Los Angeles (HACLA)*, Los Angeles Superior Court Case No. BS131048 (PERB Case Nos. LA-CO-104-M, LA-CE-572-M). Issue: Did PERB err in PERB Decision Nos. 2165-M and 2166-M (adopting a Board Agent's dismissal of both of petitioner's charges alleging retaliation by HACLA and failure of the duty of fair representation by AFSCME)? A petition for writ of mandamus was filed in superior court in March 2011, and PERB appeared in the action April 2011. After a hearing on November 9, 2011, Moore's petition for writ of mandate

was denied. A motion for reconsideration was denied after a hearing on January 31, 2012. The case is now complete.

15. *Fallbrook Elementary Teachers Association v. PERB; Fallbrook Elementary School District*, California Court of Appeal, Fourth Appellate District, Case No. D059434 (PERB Case No. LA-CE-5271-E). Issue: Did PERB err in Decision No. 2171-E (reversing an ALJ, and finding that the District did not retaliate against an employee based on an isolated statement reflecting anti-union animus)? A petition for writ of extraordinary relief (Gov. Code, § 3542, subd. (b)) was filed in March 2011. The case was fully briefed in October 2011. The petition was summarily denied on December 16, 2011, and the case is now complete.

16. *Police Officers Association, Victor Valley Community College District (POA) v. PERB*, San Bernardino Superior Court, Case No. CIV-VS1102192 (PERB Case No. LA-SV-164-E). Issue: Did PERB err in Order No. Ad-388E (affirming a Board Agent's dismissal of a severance petition)? The POA filed a petition for writ of mandamus in April 2011. PERB's motion for judgment on the pleadings was granted after a hearing on August 23, 2011. An order dismissing the action was filed on September 12, 2011. No appeal was taken, and the case is now complete.

17. *Williams & Halcoussis v. PERB; California Faculty Association*, California Court of Appeal, Second Appellate District, Case No. B233494, Los Angeles Superior Court Case No. BS127710, (PERB Case Nos. LA-CO-501-H & LA-CO-502-H). Issue: Did PERB err in Decision Nos. 2116-H and 2117-H (adopting a Board Agent's dismissal of petitioners' individual charges alleging that CFA violated HEERA by refusing to allow non-CFA members to cast a vote to determine employee support for a proposed two-days-per-month furlough program)? A petition for writ of mandamus was filed in superior court in August 2010, and the case was dismissed in May 2011. On June 1, 2011, the petitioners filed a notice of appeal in the Court of Appeal. The case was fully briefed in December 2011. After oral argument on March 9, 2012, the Court of Appeal issued an unpublished decision affirming the trial court decision in its entirety. PERB filed a request for publication of the Court of Appeal decision, which was granted on April 9, 2012. (See *Williams v. PERB* (2012) 204 Cal.App.4th 1199.) Petitioners did not seek review in the California Supreme Court, and the case is now complete.

18. *County of Riverside v. PERB; SEIU Local 721*, California Supreme Court Case No. S195567; Court of Appeal, Fourth Appellate District, Division Two, Case No. E051351; (PERB Case Nos. LA-CE-447-M, LA-CE-482-M). Issue: Did PERB err in Decision No. 2119-M by (affirming an ALJ and finding in relevant part that statements by County supervisors and County officials were threats of reprisal that violated the MMBA)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in July 2010. On August 12, 2011, after the Court of Appeal denied its writ petition, the County filed a petition for review in the California Supreme Court. The California Supreme Court denied the County's petition for review on September 14, 2011, and the case was complete as to that court.

19. *County of Los Angeles v. Los Angeles County ERC; SEIU Local 721 (SEIU 721)*, California Supreme Court Case No. S191944, California Court of Appeal, Second Appellate

District, Division Three, Case No. B217668. The California Supreme Court granted review of the decision in *County of Los Angeles v. Los Angeles County Employee Relations Commission* (2011) 192 Cal.App.4th 1409, in which the court rejected SEIU 721's argument that, consistent with longstanding PERB case law, it was entitled to the home addresses of non-member employees to fulfill its representation duties. The issues before the California Supreme Court are whether: (1) under the state Constitution (Cal. Const., art. I, § 1), the interests of non-union-member public employees in the privacy of their personal contact information outweigh the interests of the union representing their bargaining unit in obtaining that information in furtherance of its duties as a matter of labor law to provide fair and equal representation of union-member and non-union-member employees within the bargaining unit; and (2) the Court of Appeal erred in remanding to the trial court with directions to apply a specific notice procedure to protect such employees' privacy rights instead of permitting the parties to determine the proper procedure for doing so. On January 13, 2012, PERB filed an amicus brief discussing relevant case law. The case was fully briefed by both parties and amici as of February 15, 2012, and remains pending.

20. *City of Redding v. PERB; SEIU Local 1021*, California Court of Appeal, Third Appellate District, Case No. C068825, (PERB Case No. SA-CE-553-M). Issue: Did PERB err in Decision No. 2190-M (affirming an ALJ decision holding that the City violated the MMBA when it refused to provide SEIU Local 1021 with a copy of an investigative report, and ordering the City to provide a copy of the report with employee names and other identifying information redacted)? A petition for writ of extraordinary relief (Gov. Code, § 3509.5, subd. (a)) was filed in July 2011. The case was fully briefed in January 2012. On January 19, 2012, the petition was summarily denied. The case is now complete.

21. *California Correctional Peace Officers Association (CCPOA) v. PERB; Department of Personnel Administration (DPA)*, Alameda Superior Court No. RG11594509 (PERB Case No. SA-CE-1830-S). Issue: Did PERB err in Decision No. 2196-S (affirming a Board Agent's dismissal of the charge, and holding that an element of a prima facie claim for bad faith refusal to bargain the effects of a decision to change a prison policy regarding searches of staff for contraband was a showing that CCPOA made a pre-filing demand to bargain over specific, reasonably anticipated effects of that decision, notwithstanding the employer's failure to notify CCPOA of the change before it was implemented)? CCPOA filed a petition for writ of mandate on or about September 14, 2011, against PERB only. At a hearing on DPA's motion to intervene on January 23, 2012, CCPOA and DPA advised the court that they had settled the matter, the motion was dropped, and a request for dismissal was filed. The case is now complete.

22. *County of Riverside v. PERB; SEIU Local 721*, United States Supreme Court Case No. 11-737; California Supreme Court Case No. S195567; Court of Appeal, Fourth Appellate District, Division Two, Case No. E051351; (PERB Case Nos. LA-CE-447-M, LA-CE-482-M). Issue: Did PERB err in Decision No. 2119-M (affirming an ALJ and finding in relevant part that statements by County supervisors and County officials were threats of reprisal that violated the MMBA)? On December 14, 2011, after the California Supreme Court denied the County's petition for review, the County filed a petition for writ of certiorari in the U.S.

Supreme Court. PERB and SEIU each filed a “waiver” of their answers to the cert petition, which was denied on February 17, 2012. The case is now complete.

23. *Baprawski v. PERB; Los Angeles Community College District*, California Court of Appeal, Second Appellate District, Division One, Case No. B237839 (PERB Case No. LA-CE-5423-E). Issue: Did PERB err in Decision No. 2219, (affirming a proposed decision in which the ALJ dismissed a charge and complaint alleging that the LACCD violated EERA by relocating the office in which Ms. Baprawski worked as a counselor in 2009, in retaliation for filing a grievance and two PERB charges in 2004-2006?) A petition for writ of extraordinary relief (Gov. Code, § 3542, subd. (b)) was filed on December 14, 2011. Briefing is underway.

24. *City of Palmdale v. PERB; Teamsters Local 911*, Court of Appeal, Second Appellate District, Division Four, Case No. B238572 (PERB Case No. LA-PC-5-M). Issue: Did PERB err in Decision Nos. 2203 and 2203a by (affirming a Board Agent’s decision granting, in part, a petition for certification by which the Teamsters sought to become the exclusive representative of certain lead employees in the traffic and maintenance divisions of the City’s Department of Public Works)? On January 20, 2012, the City filed a petition for writ of review and a request for a stay of the Board’s decision. Briefing was completed on July 24, 2012. The case is pending.

25. *PERB v. SEIU Local 721; County of Riverside*, Riverside Superior Court, Case No. RIC1201283, IR Request No. 614 (PERB No. LA-CE-148-M). Issue: Whether registered nurses and other employees of the Riverside County Regional Medical Center and County detention and psychiatric facilities, all of whom are represented by SEIU 721, should be deemed “essential employees,” and be enjoined from engaging in a one-day strike noticed for January 31, 2012? On January 27, 2012, PERB filed a complaint for injunctive relief and an ex parte application for a TRO prohibiting “essential employees” from joining over 5,000 other unit members in a one-day strike on January 31, 2012. Approximately 480 employees were designated as “essential” in the County’s IR Request but that number was reduced to 248 after a day-long negotiation conducted by PERB staff, and another day-long hearing in superior court. The strike went forward on January 31, 2012. The charge was withdrawn and the matter settled based on a tentative five-year MOU on February 9, 2012. The case is now complete.

26. *PERB v. City of San Diego; San Diego Municipal Employees Association (MEA)*, San Diego Superior Court Case No. 37-2012-00092205, IR Request No. 615 (PERB Case No. LA-CE-746-M). Issue: Whether the City should be enjoined from proceeding with an election on a local ballot measure entitled “Comprehensive Pension Reform (CPRI),” which was allegedly authored, funded, and promoted by City agents, including Mayor Jerry Sanders and two City Council Members, to amend City Charter provisions relating to employee pensions, based on a finding of reasonable cause to believe the City violated the MMBA by refusing to bargain with the MEA before proposing and approving the CPRI, and placing it on the ballot for the June 5, 2012 primary election? PERB filed a complaint and verified petition for writ of mandate in San Diego Superior Court on February 14, 2012, and an ex parte application for a temporary restraining order (TRO) and order to show cause (OSC) re

preliminary injunction the following day. After a hearing on February 21, 2012, the trial court denied PERB's request for a TRO and OSC, without prejudice to refile a motion for preliminary injunction after the election. Also on February 21, 2012, the City filed a cross-complaint, seeking to enjoin PERB's administrative proceedings, and a demurrer to PERB's complaint. On March 27, 2012, a newly assigned trial court judge granted the City's renewed ex parte application for an immediate stay of the PERB administrative proceedings as to PERB Case No. LA-CE-746-M. On April 11, 2012, the San Diego MEA filed a petition for writ of mandate in the California Court of Appeal for the Fourth Appellate District, Division One, seeking immediate relief from the stay of PERB's administrative proceedings, which was granted on June 19, 2012. (See entry no. 30, *post*.) At a hearing on September 14, 2012, the court overruled the City's demurrer to PERB's complaint and took under submission PERB's special motion to strike pursuant to Code of Civil Procedure, section 425.16 and motion for judgment on the pleadings as to the cross-complaint. The case is pending.

27. *Boling v. PERB & City of San Diego; San Diego Municipal Employees Association*, San Diego Superior Court Case No. 37-2012-00093347 (PERB Case No. LA-CE-746-M). Issue: Whether the PERB administrative proceedings as to UPC No. LA-CE-746-M should be enjoined, because by initiating *PERB v. City of San Diego*, San Diego Superior Court Case No. 37-2012-00092205 (Case No. 92205), the Board misused public funds to "campaign" against the CPRI, and the *Boling* plaintiffs, who claim to be the true "citizen proponents" of the Initiative, were unable to intervene immediately in Case No. 92205 to defend their initiative. The *Boling* complaint was filed in San Diego Superior Court on March 5, 2012, against PERB and the City. On March 14, 2012, the *Boling* plaintiffs and the City filed an ex parte application for an immediate stay of the PERB administrative proceedings, which was denied after a hearing on March 15, 2012. The case was thereafter related to Case No. 92205 and transferred to the trial judge assigned to that case. On May 2, 2012, PERB filed a special motion to strike the *Boling* complaint pursuant to Code of Civil Procedure, section 425.16, which was heard along with a motion for judgment on the pleadings on September 14, 2012. The case is pending.

28. *Doe v. Deasy*, Los Angeles Superior Court Case No. BS134604, related to *United Teachers Los Angeles (UTLA) & Associated Administrators of Los Angeles (AALA) v. Los Angeles Unified School District (LAUSD)*, PERB Case Nos. LA-CE-5546-E, LA-CE-5561-E & LA-CE-5568-E. Issues: Whether (1) the Stull Act (Educ. Code, § 44660, et seq.), requires LAUSD to consider student performance on standardized tests as part of its teacher evaluation process; and (2) whether the plaintiffs' claims are preempted by the EERA. A complaint and petition for writ of mandate were filed on November 1, 2011, by students, parents, and taxpayers who reside within the boundaries of the LAUSD (all but one of whom were named as "DOES"), naming LAUSD, UTLA, AALA, and PERB as defendants and respondents. Just prior to a November 21, 2011 trial setting conference, the plaintiffs amended their petition, deleting UTLA, AALA, and PERB as defendants and respondents. At the trial setting conference, the court ordered that UTLA and AALA be added back into the Amended Petition as "real parties in interest," and that PERB be allowed to intervene by stipulation of the parties. PERB filed a stipulation and complaint in intervention on April 4, 2012, and a brief in opposition to the petition on May 2, 2012. A hearing on the merits of the Amended Petition for Writ of Mandate was held on June 12, 2012. After that hearing, the trial court

confirmed its tentative decision to grant the writ, in part, and directed the parties to meet and confer regarding an award of attorney fees. The case is pending.

29. *Moore v. PERB; AFSCME, Council 36 & Housing Authority for the City of Los Angeles (HACLA)*, California Court of Appeal, Second Appellate District Case No. B240272, Los Angeles Superior Court Case No. BS131048 (PERB Case Nos. LA-CO-104-M, LA-CE-572-M). Issue: Did PERB err in PERB Decision Nos. 2165-M and 2166-M (adopting a Board Agent's dismissal of both of petitioner's charges alleging retaliation by HACLA and failure of the duty of fair representation by AFSCME)? In April 2012, Moore filed a notice of appeal from a judgment of the superior court denying his petition for writ of mandate. On June 12, 2012, the Court of Appeal dismissed the appeal. The case is now complete.

30. *San Diego Municipal Employees Association (MEA) v. Superior Court; PERB & City of San Diego*, California Court of Appeal, Fourth Appellate District, Division One, Case No. D061724; San Diego Superior Court Case No. 37-2012-00092205 (PERB Case No. LA-CE-746-M). Issue: Whether a writ of mandate should issue, directing the San Diego Superior Court to vacate an order of March 27, 2012, in Case No. 92205, by which it granted the City's ex parte application for an indefinite stay of the PERB administrative proceedings as to PERB Case No. LA-CE-746-M? On April 11, MEA filed a petition for writ of mandate in Court of Appeal Case No. D061724, seeking immediate relief from the stay, and a writ of mandate directing the San Diego Superior Court to vacate its stay order. On May 3, 2012, the Court of Appeal issued an Order to Show Cause (OSC) why the relief requested by MEA should not be granted, and subsequently ordered oral argument to be heard on June 13, 2012. On June 19, 2012, the Court of Appeal issued a published decision granting MEA's petition. (*San Diego Municipal Employees Assn. v. Superior Court* (2012) 206 Cal.App.4th 1447.) On July 3, 2012, the Court of Appeal denied the City's petition for rehearing. On August 29, 2012, the California Supreme Court denied the City's petition for review of that decision in its Case No. S204306. The case is now complete.

31. *City of San Diego v. PERB; San Diego Municipal Employees Association et al.*, California Court of Appeal, Fourth Appellate District, Division One, Case No. D062090; original proceeding related to San Diego Superior Court Case No. 37-2012-00092205 (PERB Case Nos. LA-CE-746-M). Issue: Whether a writ of mandate should issue, directing PERB to cease and desist from conducting any further administrative proceedings as to PERB Case No. LA-CE-746-M, and three other virtually identical charges (PERB Case No. LA-CE-752-M, filed by the San Diego Deputy City Attorneys Association; PERB Case No. LA-CE-755-M, filed by AFSCME Local 127; and PERB Case No. LA-CE-758-M, filed by the San Diego Firefighters Assn., IAFF Local 145), based on the City's claim that PERB has no jurisdiction to adjudicate the charge relating to a "citizens' initiative" such as the CPRI, which was approved by San Diego voters in the June 5, 2012 election. On June 8, 2012, the City filed this original writ petition, joining all of the unions with UPCs pending before PERB, as well as the plaintiffs in the *Boling* case, essentially seeking a permanent injunction against any further administrative action on the pending UPCs. On June 14, 2012, the day after it heard oral argument in its Case No. D061724, the Court of Appeal summarily denied the City's petition in Case No. D62090 without requesting opposition. On July 14, 2012, the

California Supreme Court denied the City's petition for review of that summary denial order in its Case No. S203952. The case is now complete.

32. *Grace v. PERB; Beaumont Teachers Association*, California Court of Appeal for the Fourth Appellate District, Division Two, Case No. E056338 (PERB Case Nos. LA-CO-1410-E & LA-CO-1411E). Issue: Did PERB err in Decision Nos. 2259 & 2260 (affirming a Board Agent dismissal of charges alleging violations of the union's duty of duty of fair representation for failure to represent her in connection with her non-reelection from a probationary position as a certificated employee of the Beaumont Unified School District)? A petition for writ of review was filed in May 2012. On July 2, 2012, PERB filed a motion to dismiss the petition, which should have been filed, if at all, in superior court. The petition was denied on September 12, 2012. The case is now complete.

33. *City of San Diego v. PERB; San Diego Municipal Employees Association et al.*, California Supreme Court Case No. S203478; California Court of Appeal for the Fourth Appellate District, Division One, Case No. D062090 (PERB Case No. LA-CE-746-M). Issue: Did the Court of Appeal erred in its Case No. D062090 by summarily denying the City's original petition for writ of mandate? On June 22, 2012, the *Boling* plaintiffs filed a petition for review from the summary denial order entered by the Court of Appeal on June 14, 2012, along with a request for immediate stay of all related litigation matters and the PERB administrative hearing, which was then scheduled to begin on July 17, 2012. The Supreme Court ordered PERB and the RPI unions to file answers on an expedited basis, due by July 3, 2012, and ordered the petitioners to file their reply by July 10, 2012. On July 11, 2012, upon completion of briefing, the Supreme Court summarily denied both the petition for review and the stay request. The case is now complete.

34. *Glendale City Employees Assn. v. PERB; City of Glendale*, Los Angeles Superior Court Case No. BS137172; (PERB Case No. LA-CE-672-M). Issue: Whether a writ of mandate issue to direct the Board to vacate PERB Decision No. 2251 (affirming a Board Agent's dismissal of the CEA's charge, which alleged per se violations of the City's duty to meet and confer in good faith and surface bargaining during negotiations for a successor MOU, including changes to pension contributions)? A petition for writ of mandate was filed in superior court in June 2012. On July 18, 2012, PERB filed a notice of appearance. On August 21, 2012, the superior court sustained the City's demurrer with leave to amend. The case is pending.

35. *Magner v. PERB, et al.*, Sacramento Superior Court Case No. 07CS00173 (PERB Case No. SA-CE-1547-S). Issue: Did PERB err in Decision No. 1862-S (adopting a Board Agent's dismissal of Magner's charge alleging the State of California, Department of Forestry and Fire Protection, interfered with his rights under the Dills Act)? The case was filed in February 2007, and briefing concluded in March 2007. The case is pending.